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Edwin M. Stanton

LIFE AND PUBLIC

SERVICES OF

EDWIN M. STANTON

BY

GEORGE C. GORHAM

WITH PORTRAIT, FACSIMILES AND
AN APPENDIX

BOSTON AND NEW YORK
HOUGHTON, MIFFLIN AND COMPANY
The Riverside Press, Cambridge
1899

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LIFE AND PUBLIC SERVICES OF EDWIN M. STANTON

BY

GEORGE C. GORHAM

WITH PORTRAITS, MAPS, AND FACSIMILES OF IMPORTANT LETTERS

IN TWO VOLUMES

VOLUME II.

BOSTON AND NEW YORK
HOUGHTON, MIFFLIN AND COMPANY
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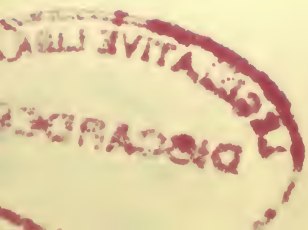

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LIFE OF EDWIN M. STANTON

PART VI

McCLELLAN'S INSUBORDINATION. — FROM HARRISON'S LANDING TO ANTIETAM

CHAPTER LXI

The Army at Harrison's Landing. — McClellan's Demands. — Correspondence with Stanton.

JULY 1, 1862, Stanton telegraphed McClellan information that 5000 troops from McDowell's corps had been sent him and had reached Fort Monroe.

On the same day McClellan telegraphed to Washington that with 50,000 more men he would "retrieve our fortunes." He said more would be well, but that he thought with that number he could assume the offensive. The President replied to him that his demand was simply absurd, for the reason that he had already furnished him with all the available forces not needed for the protection of Washington, upon McClellan's own estimate of the number necessary for that purpose. Generals Hunter in South Carolina and Burnside in North Carolina were peremptorily ordered to send him reinforcements.

July 3 McClellan telegraphed to the Secretary of War that to "accomplish the great task of capturing Richmond, and putting an end to this rebellion, reinforcements should be sent rather much over than much less than one hundred thousand men." [1]

He might as well have asked for a million, as he well knew.

General McClellan sent his chief of staff, General Marcy, to Washington to represent the condition of the army. Marcy telegraphed to McClellan on the 4th of July: —

> The President and Secretary of War speak very kindly of you and find no fault.

July 5 Mr. Stanton telegraphed McClellan as follows: —

> I have nominated for promotion General Sumner, as brevet major-general of the regular service, and major-general of volunteers; Generals Heintzelman, Keyes, and Porter, as brevet brigadiers in the regular service, and major-generals of volunteers. The gallantry of every officer and man in your noble army shall be suitably acknowledged.
>
> General Marcy is here. He will take you cheering news. Be assured that you shall have the support of this department and the government as cordially and as faithfully as was ever rendered by man to man, and, if we ever live to see each other face to face, you will be satisfied that you have never had from me anything but the most confiding integrity.

[1] But to his wife he wrote on the next day, July 4: "I am ready for an attack now; give me twenty-four hours even, and I will defy all secession."

On the same day Mr. Stanton addressed the following note to General Marcy: —

I have to hasten to the country on account of the illness of one of my children, and must therefore forego the pleasure of your company. I leave a brief note for the general, having intended to write him at large; but you can explain to him much that I would say.

The following is the note to General McClellan, referred to in the foregoing: —

I have had a talk with General Marcy, and meant to have written you by him, but am called away to the country, where Mrs. Stanton is with her children, to see one of them die.[1] I can therefore only say, my dear general, in this brief moment, that there is no cause in my heart or conduct for the cloud that wicked men have raised between us for their own base and selfish purposes. No man ever had a truer friend than I have been to you, and shall continue to be. You are seldom absent from my thoughts, and I am ready to make any sacrifice to aid you. Time allows me to say no more than that I pray Almighty God to deliver you and your army from all peril, and lead you on to victory.

To this General McClellan made a reply, July 8, evidently intended for posterity rather than for the person to whom it was addressed, for in it he repeated the oft-refuted charge that a large portion of his forces had been withheld from him after the commencement of his campaign, and complained that Mr. Stanton had given his concurrence to this action. He professed, however, to accept Mr. Stanton's assurances of friendship, and said he should resume the cordial confidence of the past. His words were as follows: —

[1] This was their infant son James. He died five days later.

It is with a feeling of great relief that I now say to you that I shall at once resume on my part the same cordial confidence which once characterized our intercourse.

And again: —

I have been perfectly frank with you. Let no cloud hereafter arise between us.

Concerning this correspondence he wrote his wife on the 12th: —

I inclose with this a letter from Stanton and my reply, which I want you to preserve very carefully with my other "archives," as it may be important.

Having thus secured the safe-keeping of the letter to Stanton, which was intended for future publication, he wrote on the very next day to his wife what his real feelings were towards him. He said: —

So you want to know how I feel about Stanton, and what I think of him now. I will tell you with the most perfect frankness. I think . . . I may do the man injustice. God grant that I may be wrong. For I hate to think that humanity can sink so low. But my opinion is just as I have told you.

What he had told her is suppressed by the editor of his book, who seemed to think it unfit to print. The omission occurs just as represented in the above quotation. He concluded with the words: "Enough of the creature!" It was thus that he resumed "the same cordial confidence" which once characterized his intercourse with Stanton.

CHAPTER LXII

McClellan's Harrison's Landing Letter, instructing the President and Congress as to their Civil Duties. — A Bid for the Presidency, so framed as to satisfy the Anti-War Party. — Fitz John Porter's Confirmatory Statement of this in After Years.

On the 8th of July, President Lincoln being on a visit to Harrison's Landing to look at matters for himself, General McClellan delivered into his hands the following political letter. He read it in the general's presence, but uttered no word in reply, except "Thank you."[1]

Mr. President, — You have been fully informed that the rebel army is in the front, with the purpose of overwhelming us by attacking our positions or reducing us by blockading our river communications. I cannot but regard our condition as critical, and I earnestly desire, in view of possible contingencies, to lay before your Excellency, for your private consideration, my general views concerning the existing state of the rebellion, although they do not strictly relate to the situation of this army, or strictly come within the scope of my official duties. These views amount to convictions, and are deeply impressed upon my mind and heart. Our cause must never be abandoned; it is the cause of free institutions and self-government. The Constitution and Union must be preserved, whatever may be the cost in time, treasure, and blood. If secession is successful, other dissolutions are clearly to be seen in the future. Let neither military disaster, political

[1] *Own Story*, page 487.

faction, nor foreign war shake your settled purpose to enforce the equal operation of the laws of the United States upon the people of every State.

The time has come when the government must determine upon a civil and military policy covering the whole ground of our national trouble.

The responsibility of determining, declaring, and supporting such civil and military policy, and of directing the whole course of national affairs in regard to the rebellion, must now be assumed and exercised by you, or our cause will be lost. The Constitution gives you power sufficient even for the present terrible exigency.

This rebellion has assumed the character of war; as such it should be regarded, and it should be conducted upon the highest principles known to Christian civilization. It should not be a war looking to the subjugation of the people in any State in any event. It should not be at all a war upon population, but against armed forces and political organization. Neither confiscation of property, political executions of persons, territorial organization of States, or forcible abolition of slavery should be contemplated for a moment. In prosecuting the war, all private property and unarmed persons should be strictly protected, subject only to the necessity of military operations. All private property taken for military use should be paid for or receipted for; pillage and waste should be treated as high crimes; all unnecessary trespass sternly prohibited, and offensive demeanor by the military towards citizens promptly rebuked. Military arrests should not be tolerated, except in places where active hostilities exist, and oaths not required by enactments constitutionally made should be neither demanded nor received. Military government should be confined to the preservation of public order and the protection of political rights. Military power should not be allowed to interfere with the relations of servitude,

either by supporting or impairing the authority of the master, except for repressing disorder as in other cases. Slaves contraband, under the act of Congress, seeking protection, should receive it. The right of the government to appropriate permanently to its own services claims to slave labor should be asserted, and the right of the owner to compensation therefor should be recognized.

This principle might be extended upon grounds of military necessity and security to all the slaves within a particular State, thus working manumission in such State; and in Missouri, perhaps in Western Virginia also, and possibly even in Maryland, the expediency of such a measure is only a question of time.

A system of policy, thus constitutional and conservative, and pervaded by the influences of Christianity and freedom, would receive the support of almost all truly loyal men, would deeply impress the rebel masses and all foreign nations, and it might be humbly hoped that it would commend itself to the favor of the Almighty.

Unless the principle governing the future conduct of our struggle shall be made known and approved, the effort to obtain requisite forces will be almost hopeless. A declaration of radical views, especially upon slavery, will rapidly disintegrate our present armies. The policy of the government must be supported by concentrations of military power. The national forces should not be dispersed in expeditions, posts of occupation, and numerous armies, but should mainly be collected into masses and brought to bear upon the armies of the Confederacy. Those armies thoroughly defeated, the political structure which they support would soon cease to exist.

In carrying out any system of policy which you may form, you will require, as commander-in-chief of the army, one who possesses your confidence, understands your views, and who is competent to execute your orders, by directing the military

forces of the nation to the accomplishment of the objects by you proposed. I do not ask that place for myself. I am willing to serve you in such position as you may assign me, and I will do so as faithfully as ever subordinate served superior.

I may be on the brink of eternity, and as I hope forgiveness from my Maker I have written this letter with sincerity towards you and from love of my country.

Very respectfully your obedient servant,

GEORGE B. McCLELLAN,
Major-General Commanding.

This letter afterwards placed McClellan in the field for the presidency, and gave him the hearty support of the Northern friends and sympathizers, open and covert, of the rebellion. They regarded him as a marvelously proper man. He was not only a strong candidate, but he was their only candidate. We have no less an authority than his bosom friend, General Fitz John Porter, for the statement that soon after this General McClellan was "the candidate apparent of the opposition for the presidency." In an application to President Grant for executive clemency, dated October 28, 1874, — twelve years after these events, — General Porter explained that at the time of his own dismissal from the army, in 1862, he suffered from the prejudice which was entertained against his chief, whose attitude that year he thus describes: —

He [McClellan] had written his Harrison Landing letter, in which he so severely arraigned the administration for the conduct of the war. He was the apparent or presumptive candidate of the opposition for the presidency.

The anti-war faction — formidable and dangerous — nestled in the bosom of "the opposition," eliciting from its "presumptive candidate" no murmur that would injure his chances for its nomination, which two years later he received and accepted.

This pronunciamento, which so endeared McClellan to the enemies of the country when published by him some months later, necessarily operated in a contrary direction upon its friends. In it he had done his utmost to make it appear that the humane and otherwise creditable sentiments he uttered, as well as the proslavery opinions, were being antagonized by the party in power. He held himself up as one anxious to save the republic, not from the rebellion, but from the administration of Abraham Lincoln. This document was as audacious as it was mischievous. It dealt with matters with which, as a military subordinate, he had no more right to interfere than he had with the legislation of Congress or the decisions of the Supreme Court, and it grossly misrepresented the course of the administration. He wrote it, not for effect on the President, but to be afterwards used as an appeal to those voters of the country whose support of the Union cause was too feeble to survive any appearance, in the conduct of the war, of an intention to weaken the hold of rebel slaveholders upon their slaves. It threatened a revolt in the army, if emancipation should be attempted. A copy of the document was sent to his wife with the request that it be preserved carefully "as a very important record."[1]

[1] *Own Story*, page 446.

The editor of McClellan's "Own Story" assures us that the letter never was seen by McClellan's friends "until after the general was finally relieved from command."[1] Of course it was not. It was not until then that it could be useful for the purpose for which it was written.

[1] *Own Story*, page 489.

CHAPTER LXIII

Operations in Northern Virginia. — Defense of the Capital. — Rebel Operations in the Shenandoah Valley. — Pope's Command. — He corresponds with McClellan. — The Latter demands 100,000 more Men.

The President's order of March 11, 1862, which relieved General McClellan from the command of the armies of the United States, and limited his new command to the Department of the Potomac, designated no successor as general-in-chief. All commanders of departments were ordered to "report severally and directly to the Secretary of War." By this order the President virtually assumed command of all the armies, with the Secretary of War as his chief of staff.

On the 4th of April the Department of the Potomac was reduced in territorial extent by the creation of the Department of the Shenandoah under General Banks, and the Department of the Rappahannock under General McDowell. The first covered the Shenandoah Valley, and the latter embraced all the region east of the Blue Ridge and west of the railroad from Richmond to Acquia Creek, and west of the Potomac above that point, and also the District of Columbia and the counties of Maryland bordering on the Potomac.

This order followed immediately upon the discovery, April 2, by the Secretary of War that General McClellan

had ordered to the peninsula a large portion of the force he had been imperatively required by the President to leave for the defense of Washington. Its wisdom was amply vindicated by the necessity which constantly arose afterwards for forces sufficient to meet and repel the advances of the enemy under General Stonewall Jackson, whose energetic campaign in the Shenandoah Valley — threatening an invasion of Maryland and an attack on the capital — was for a time the cause of well-grounded alarm throughout the country.

It being difficult to secure harmonious action by the three department commanders in northern Virginia, the President made an order on the 26th of June by which all the forces under Banks, McDowell, and Fremont, and under Sturgis commanding the defenses in Washington, were consolidated into one army, to be called the Army of Virginia, and placed under the command of Major-General John Pope, whose successful operations in the west — notably against Island No. 10 in the Mississippi River — had brought him into prominence and favorable notice. He was to protect West Virginia and the capital, attack and overcome Jackson and Ewell, menace the enemy in the direction of Charlottesville, and aim to relieve McClellan and aid in the capture of Richmond. Simultaneously with the assignment of General Pope to this command, the Seven Days' battles commenced on the peninsula.

On the 4th of July, after McClellan's army had retreated to Harrison's Landing, General Pope wrote him of the extent and disposition of the Army of Virginia, assuring him of an earnest wish to coöperate with him in

the heartiest and most energetic manner. In this letter General Pope thus summarized the relative positions of the two armies under their respective commands: —

Your position on the James River places the whole of the enemy's force around Richmond between yourself and Washington. Were I to move with my command direct on Richmond, I must fight the whole force of the enemy before I could join you, and at so great a distance from you as to be beyond any assistance from your army. If my command be embarked and sent to you by James River, the enemy would be in Washington before it had even accomplished the journey.[1] Under these circumstances my position here is difficult and embarrassing, and whilst I am anxious to render you all the assistance in my power, the imperative necessity of insuring the safety of the capital must control my operations.

To this General McClellan replied approvingly. His own army was, he said, in admirable spirit and discipline, — "it would fight better to-morrow than it ever did before." He was very persistent in his calls for reinforcements, and very strong in the opinion that his army was in the right place for a movement upon the rebel capital. In short, it was the old story. He had under his immediate command all but 75,000 of the entire forces of the East. He said he wanted 100,000 more men for any successful movement.

[1] This view as to a movement by water is identical with that expressed by General Grant, when replying to critics of his campaign of 1864. He said: "If the Army of the Potomac had been moved bodily to the James River by water, Lee could have moved part of his forces back to Richmond, called Beauregard from the South to reinforce it, and with the balance moved on to Washington." Grant's *Memoirs*, vol. ii. p. 141.

CHAPTER LXIV

Halleck made General-in-Chief. — He visits McClellan. — Perilous Situation of the Capital and of the Army under Pope. — McClellan ordered to withdraw his Army from the James River and unite it with the Army in Northern Virginia. — The Order ignored for Eleven Days.

Lee's road to Washington being now obstructed only by the comparatively small force under Pope, it was obvious that, unless supported by McClellan, Pope's army must be overwhelmed by the combined force of the enemy, to whom the federal capital would then fall an easy prey. How to induce McClellan not only to move rapidly enough to overtake Lee in a race for the capital, — checked to some extent as the latter would be by Pope, — but to move at all, now became the supreme question. It was absolutely necessary that the armies under McClellan and Pope should operate under one competent military mind. The appointment of a general-in-chief was, therefore, determined upon, and on the 11th of July the President assigned General Halleck to the command of the whole of the land forces of the United States.

Although Halleck's career in the West had not been fruitful in performance, great military events in which he had borne but small part had been placed to his credit in his own official announcements of them from

his office in St. Louis, and he had succeeded in securing a large share of the public attention. President Lincoln and Secretary Stanton were doubtless impressed with the idea that he knew the laws of military science because he had been a military instructor at West Point, and thought he could be relied upon to point out the way to withdraw the Army of the Potomac from the peninsula, and to consolidate it with the forces of Pope in northern Virginia.

Halleck arrived in Washington on the 23d of July, twelve days after he had been made general-in-chief.

The number of men composing the Army of the Potomac on the 20th of July, as certified to by McClellan, was 158,314. Of these he said 101,691 were present for duty. According to his own theory, the practical defense of Washington was on the James River, because Richmond would then be in such danger that the enemy must employ his entire force there for its protection. In the face of this view McClellan wrote President Lincoln on July 20 that Jackson's troops had commenced leaving Richmond one week before, by rail, and that the movement had continued for three days and nights. He had permitted this movement to go on without sooner mentioning it, and without making any demonstration upon the enemy to keep him at home. He said the troops were moving either towards Gordonsville or Fredericksburg. He thought they might be destined for the West, or for the front of Washington.

So far as any interference by him was concerned, it was perfectly safe for Lee to move his entire army upon Pope, which he finally did.

Immediately upon the arrival of General Halleck at Washington, the President directed him to confer personally with General McClellan, which he did at Harrison's Landing on the afternoon of the 25th of July. In a memorandum for the Secretary of War he reported the result of this conference on the 27th.

He said McClellan proposed to cross the James River, attack Petersburg, and cut off the enemy's communications with the South, making no further demonstration for the time against Richmond, but that he finally agreed this plan would be dangerous and impracticable. General Halleck told him that it seemed a military necessity to concentrate his forces with those of General Pope on some point where they could at the same time cover Washington and operate against Richmond, unless he felt strong enough to attack the latter place with such reinforcements as could be given him. McClellan then said that with 30,000 reinforcements he could attack Richmond with a good chance of success. Halleck told him that he was authorized by the President to promise only 20,000, and that if he could not take Richmond with that number his troops must be withdrawn from the James River to some point where they could unite with those of General Pope without exposing Washington. McClellan thought this could be done without serious difficulty, but that it would have a demoralizing influence on his own troops, and wanted to hold his position where he was until sufficient reinforcements could be collected. General Halleck told him he had no authority to consider that proposition, "and that he must decide between advis-

ing the withdrawal of his forces to some point to be agreed upon, to meet General Pope, or an advance on Richmond with the reinforcements which the President had offered," namely, 20,000.

General Halleck understood McClellan that he would prefer to withdraw and unite with General Pope, but would take the matter under advisement in order to consult his officers and give a final answer in the morning. Says General Halleck: —

> The next morning, July 26, he informed me that he would attack Richmond with the reinforcements promised. He would not say that he thought the probabilities of success were in his favor, but that there was a chance, and he was willing to try it.

McClellan informed Halleck that his own effective force was 90,000, and yet only five days before he had officially certified, as already stated, that he had present with him and ready for duty 101,691. Nothing had occurred to reduce the number.

July 30 McClellan wrote that he was sure the enemy was being reinforced at Richmond. He said: —

> I still feel that our true policy is to reinforce the army by every available means and throw it again upon Richmond. Should it be determined to withdraw it, I shall look upon our cause as lost and the demoralization of the army certain.

As the army under him had as yet never been thrown upon Richmond, his talk about throwing it "again" must have been intended for posterity and not for the government or the country, both of which were abundantly aware that Richmond had enjoyed entire immunity from assault by him.

Halleck wrote McClellan on the 30th a general sort of an apology for being in command, assuring him that it was greatly against his will, but that, being ordered, he was obliged to come; that in all that had occurred up to that time he had his "full approbation and cordial support." He assured him of his friendship and confidence, and asked that it be reciprocated.

Thus invited, General McClellan unbosomed himself to some extent to General Halleck August 1. He cordially sympathized with Halleck; he would fully and heartily support him in all things; he preferred him over everybody for the command; had no feeling or jealousy in his heart towards him; thought that they two could save the country and bring the war to an early termination. His only fear was that selfish politicians would not allow them to do so. He feared the results of the civil policy inaugurated by recent action of Congress.[1]

He then proceeded to discuss the question of slavery. He wanted the South convinced that we were not making war upon that institution. He wanted the war conducted as a war between civilized nations. In short, it was a repetition of the sentiments in his letter to the President of the 7th of July, and, like that, seemed intended to meet the public eye at a future time, which the writer had in contemplation.

It may be here remarked that at this time there had been no intimation of any purpose on the part of the

[1] An act to suppress insurrections, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes, approved July 17, 1862.

government either to proclaim emancipation as a military measure, or to interfere with slavery in any manner. The stock in trade of the rebel sympathizers in the North was that the South had been driven into the rebellion in order to preserve their sacred domestic institution of slavery. A large portion of the Northern people were saturated with prejudice against the negro and benumbed with indifference as to his welfare. The surest way to retard enlistments and generally to obstruct the prosecution of the war was by clamoring that the war against rebellion was an "abolition war." Demagogues harangued the Northern people with pretended Union speeches interlarded with denunciations of the party in power. It was a common phrase with such disturbers that the Democratic party would put down the rebellion, and would then turn their bayonets against the "abolitionists," meaning the Republicans. In this very letter McClellan said: —

> I and the army under me are fighting to restore the Union and the supremacy of its laws, not for revenge. I therefore deprecate and view with infinite dread any policy which tends to render impossible the reconstruction of the Union and to make this test simply a useless effusion of blood.

If this meant anything, it meant that he felt just as pleasantly towards the enemy in front of him as he would if he had been on the other side, and that if there was behind Union bayonets a feeling of anger towards treason, the fighting would be for revenge. His letters published in his "Own Story" show that at that very time he nursed all the hatred of which his nature was capable for his superior officers in the

government to which his allegiance was due. His expression of dread of any policy which would render impossible the reconstruction of the Union was another way of saying that the war must not be conducted in a manner that would seriously offend the enemy. It was apparently the desire of his heart that the war should end by a compromise, by which the Union with slavery would be preserved, and with which the South would be pleased and the unconditional unionists of the North humiliated.

It was this hope that restrained him from acting the part of a soldier and made him assume the rôle of a pro-slavery politician in the midst of a pro-slavery rebellion. That he was retained in command of the Army of the Potomac by Mr. Lincoln in the face of his insubordination, his unsoldierly meddling with civil affairs of the administration, and his total inefficiency, was the result of conditions which will be discussed in a future chapter.

Nearly a month having elapsed since the Army of the Potomac retreated to Harrison's Landing, and McClellan having declined even to express the opinion that he could do anything with his army, even reinforced with the 20,000 troops offered, he was told by General Halleck on the 30th of July to send away his sick. After waiting three days for an answer without receiving one, General Halleck repeated this order on the 2d of August, and on the following day directed him to withdraw his entire army from Harrison's Landing and bring it to Acquia Creek. Although these orders were imperative, McClellan treated them as mere

suggestions, and replied by protesting against the movement under the pretext that further time was required for moving the sick. The withdrawal of his army was not commenced until the 14th of August, eleven days later.

The following are extracts from a letter written by General Phil Kearney to a friend, dated at Harrison's Landing August 4: —

> With Pope's army I would breathe again. . . . McClellan is the failure I ever proclaimed him. He will only get us into more follies — more waste of blood — fighting by driblets. He has lost the confidence of all, . . . he is burnt out. Never once on a battlefield. You have nothing to hope from him as the leader of a column. . . . McClellan is dangerous from the want of digesting his plans. He positively has no talents. Adieu. Get me and my fighting division with Pope.[1]

[1] MS.

CHAPTER LXV

McClellan's Private Letters. — His Fears that he will be superseded. — His Denunciations of Pope. — Predicts his Defeat, and his own Triumph as the Result.

To know McClellan's real feelings, and to properly estimate his motives and intentions during this time, it is only necessary to read his private letters as they appear in his "Own Story." From these it is perfectly evident that he was intensely jealous, weak, and egotistical; that the sole question in his mind was himself. He was always threatening what he would do if he was removed from his command, and predicting calamity to the army if anything was done to wound his self-love.

July 18 he wrote to his wife: —

I am inclined now to think that the President will make Halleck commander of the army,[1] and that the first pretext will be seized to supersede me in command of this army. Their game seems to be to withhold reinforcements, and then to relieve me for not advancing, well knowing that I have not the means to do so. If they supersede me in command of the Army of the Potomac, I will resign my commission at once. . . .

I owe no gratitude to any but my own soldiers here; none to the government or to the country; they are my debtors, not I theirs.

[1] Halleck's appointment, though made on the 11th of that month, had not yet been publicly announced.

To William H. Aspinwall, of New York, he wrote July 19: —

It is my opinion that I will be removed from command of this army in a short time.

On the 20th he wrote his wife: —

I believe it is now certain that Halleck is commander-in-chief. . . . This, of course, fixes the future for us. I cannot remain permanently in the army after this slight. . . . It is grating to have to serve under the orders of a man whom I know by my experience to be my inferior.

July 22 he wrote: —

I see that the Pope bubble is likely to be suddenly collapsed. Stonewall Jackson is after him, and the young man who wanted to teach me the art of war will in less than a week either be in full retreat, or badly whipped.

July 25, after saying that he had been out of headquarters, he wrote: —

Then I heard that Halleck was here, and was obliged to return to see my master. I think Halleck will support me and give me the means to take Richmond. I am not to be relieved from the command of this army — at least that does not seem to be the present intention.

On the 28th he wrote: —

I hear nothing as yet from Washington, and begin to believe that they intend and hope that I and my army may melt away under the hot sun.

July 31 he and General Marcy had been discussing people in Washington, and concluded that they were "a mighty trifling set."

August 1 he had received "a very friendly letter from Halleck."

August 2 he wrote: —

When you contrast the policy I urged in my letter to the President[1] with that of Congress and of Mr. Pope, you can readily agree with me that there can be little actual confidence between the government and myself. We are the antipodes of each other; and it is more than probable that they will take the earliest opportunity to relieve me from command and get me out of sight.

August 4 he wrote: —

Halleck has begun to show his cloven foot already.

He had received Halleck's second order to commence removing the sick, the first one having been ignored by him.

August 8 he wrote: —

I hope that the enemy will be foolish enough to attack me. Should they be so foolish as to do that, I shall surely beat them and follow them to Richmond; but I fear they are too smart for that. I can hardly hope for so much good luck. If it is a possible thing to humbug them into an attack, I will do it.

This he was going to do although he had not received the 100,000 indispensable reinforcements, nor the 50,000, nor the 30,000, nor the 20,000.

In the same letter he wrote: —

I will issue to-morrow an order, giving my comments on Mr. John Pope. I will strike square in the teeth of all his infamous orders, and give directly the reverse instructions to

[1] July 7, on civil polity.

my army; forbid all pillaging and stealing, and take the highest Christian ground for the conduct of the war. Let the government gainsay it if they dare. I am willing to fall in such a cause. I will not permit this army to degenerate into a mob of thieves, nor will I return these men of mine to their families as a set of wicked and demoralized robbers.

All of this was directed against General Pope's perfectly proper order that the army subsist on the country during its movements.

He also informed his wife that he had received his orders from Halleck, and added: —

I have learned enough through private sources that they have not yet determined how to dispose of me personally. . . . I had another letter from Halleck to-night. I strongly suspect him.

August 10 he wrote: —

Halleck is turning out just like the rest of the herd. The affair is rapidly developing itself, and I see more clearly every day their settled purpose to force me to resign. I am trying to keep my temper. I have no doubt that I will [not] be with this army more than two or three weeks longer, and should not be surprised any day or hour to get my "walking papers."

Later the same day he wrote: —

The absurdity of Halleck's course in ordering the army away from here is that it cannot possibly reach Washington in time to do any good, but will necessarily be too late.

This was seven days after the peremptory order for that movement. As he had not then taken any steps towards obeying the order, no one was better able than he to say that the army could not reach Washington

"in time to do any good." Not only had he taken no step to obey the order, but he wrote: —

I hope to be ready to-morrow afternoon to move forward in the direction of Richmond. I will try to catch or thrash Longstreet, and then, if the chance offers, follow into Richmond while they are lamming away at Pope. It is in some respects a desperate step, but it is the best I can do for the nation just now, and I would rather even be defeated than retreat without an effort to relieve Washington in the only way at all possible. . . . I half apprehend that they will be too quick for me in Washington, and relieve me before I have the chance of making the dash. If so, well and good. I am satisfied that the dolts in Washington are bent on my destruction, if it is possible for them to accomplish it.

He was evidently studying dramatic effects, and thought to escape public censure for disobedience to orders by some unimportant movement which could be made to do duty as an apparent advance upon Richmond.

At midnight he had received a very peremptory dispatch from Halleck, which made him hesitate about persisting in his insubordination. He said: —

Under the circumstances I feel compelled to give up the idea of my intended attack upon Richmond, and must retrace my steps. Halleck writes that all the forces in Virginia, including Pope, Burnside, etc., are to be placed under my command; I doubt it. They are committing a vital error in withdrawing me from here, and the future will show it. I think the result of their machinations will be that Pope will be badly thrashed within ten days, and they will be very glad to turn over the redemption of their affairs to me.

It was not "their machinations" that were to lead

to results so acceptable to General McClellan. It is important to know from himself that he regarded the defeat of Pope as necessary to his own advantage, for then "they would be glad to turn over the redemption of their affairs" to him.

August 11 he wrote: —

I suppose Pope is having his hands kept full to-day. He is probably being hard pressed by Jackson.

He seemed fully alive to the peril to which Pope was being exposed by the failure of the Army of the Potomac to move for his relief.

On the 14th he complained bitterly that Halleck "was not a gentleman," because he had not remained long enough at his office after midnight to engage in an argument by telegraph on the order which he (McClellan) was disobeying.

August 17 he wrote: —

I learn that all the troops in Virginia are to be placed under my command. Burnside came down to assure me from Halleck that he (H.) is really my friend.

This coaxing of a subordinate to obey orders and offering him inducements to do so has in it an element of comedy.

August 18 he wrote to his wife: —

It will take a long time to embark this army and have it ready for action on the banks of the Potomac.

On the 21st he wrote: —

I still think they will place me on the shelf, or do something disagreeable to get me out of the way. I shall be glad of anything that severs my connection with such a set.

On the 22d he wrote: —

I think they are all pretty well scared at Washington, and probably with good reason. I am confident that the disposition to be made of me will depend entirely upon the state of their nerves in Washington. If they feel safe there, I will no doubt be shelved. . . . Their sending for me to go to Washington only indicates a temporary alarm. If they are at all reassured, you will see that they will soon get rid of me.

The records tend to show that he took great care that the "state of their nerves in Washington" should be such as to serve his purposes.

August 23 he wrote: —

I take it for granted that my orders will be as disagreeable as it is possible to make them, unless Pope is beaten, in which case, they will want me to save Washington again. Nothing but their fears will induce them to give me any command of importance, or to treat me otherwise than with discourtesy.

The letter from which this extract was taken was written while he was on the way from Fort Monroe to Acquia Creek, where he arrived August 24.

CHAPTER LXVI

McClellan at Alexandria. — His Insubordination and Withholding of Troops. — Only One Fifth of his Army succors Pope. — Consequent Loss of the Second Battle of Bull Run and of the Campaign.

It is unnecessary to burden these pages with the details of McClellan's manœuvres from the time he landed at Acquia Creek until the defeat of Pope's Army of Virginia, and its retreat upon the capital.

Pope was at this time with difficulty holding the line of the Rappahannock against the repeated assaults of forces which were being rapidly augmented, and was anxiously awaiting reinforcements from the Army of the Potomac. Whether the two Union armies or the two armies of the enemy should be first united was now the question, and its decision was obviously in McClellan's hands. The fact has long passed into history that he determined not to coöperate with Pope, and not to allow the Army of the Potomac to act with the Army of Virginia. In this he seemed to be seconded by his unwavering supporters, Generals Fitz John Porter and Franklin. In disobedience to Pope's orders, Porter failed to have his corps engaged in any battle until that of the 30th of August. McClellan kept back Sumner's corps of 10,000 men, saying it was not in a condition for fighting; and kept back Franklin's corps on vari-

ous inconsequential pretexts, so that neither reached Pope until after the decisive and disastrous second battle of Bull Run, August 30.

General Sumner testified before the Committee on the Conduct of the War as follows: —

> Had I upon landing at Alexandria been ordered forward immediately, I should have been in the second Bull Run battle with my corps.[1]

Franklin was held back in open disobedience to orders often repeated. The record shows that on the 26th General Halleck telegraphed to him at Alexandria to march his corps towards Warrenton and report to Pope. As he did not leave, General Halleck telegraphed McClellan on the 27th: —

> Franklin should move out by forced marches.

McClellan replied that he had sent orders to Franklin "to prepare to march at once;" and in a second dispatch asked if he could effect any useful purpose in front without his artillery or cavalry.

On the same night (27th) McClellan visited Washington and had a conference with Halleck. He wrote to his wife the next day concerning this interview as follows: —

> I find Halleck well disposed. He has much to contend against. I shall keep as clear as possible of the President and Cabinet; endeavor to do what must be done with Halleck alone; so I shall get on better.

Halleck seems to have been easily persuaded by McClellan that he would do the very thing he was

[1] *Report*, part i. p. 367.

determined not to do, namely, to send Franklin to the front as ordered, for on the morning of the 28th he telegraphed Franklin directly as follows: —

On parting with General McClellan about two o'clock this morning, it was understood that you were to move with your corps to Manassas Junction, to drive the enemy from the railroad. I have just learned that the general has not yet returned to Alexandria. If you have not received his order, act on this.

Franklin made no reply and made no move, but waited for McClellan and delivered the above dispatch to him. The latter telegraphed Halleck: —

The moment Franklin can be started with a reasonable amount of artillery he shall go.

Later in the day, not doubting that Franklin was on the march in obedience to orders, General Halleck telegraphed McClellan to keep up telegraphic communication with him (Franklin), "so that we may determine how far to push him forward."

McClellan replied: —

General Franklin is with me here. I will know in a few moments the condition of artillery and cavalry. We are not yet in condition to move. May be by to-morrow morning.

At 4.45 the same day McClellan telegraphed Halleck: —

Your dispatch received. Neither Franklin nor Sumner's corps is now in a condition to move and fight a battle. It would be a sacrifice to send them out now.

Halleck replied: —

There must be no further delay in moving Franklin's corps towards Manassas. They must go to-morrow, ready or not

ready. If we delay too long to get ready, there will be no necessity to go out at all, for Pope will either be defeated, or victorious without our aid.

This brought the following assurance from McClellan: —

Franklin's corps has been ordered to march at six o'clock to-morrow morning.

At 10.30 A. M. the next day (29th) McClellan telegraphed that Franklin's corps was in motion, but deprecated the movement. He represented him as having insufficient ammunition, and no wagons to move more, and did not think he could accomplish much against strong resistance. He said he "would not have moved him but for the pressing orders of the night before." This assurance seemed rather superfluous in view of the fact that the order was only a repetition of similar ones which he had been disobeying for forty-eight hours.

Halleck replied: —

Wagons and ammunition must be sent to Franklin as fast as they arrive.

He afterwards said to McClellan that he had learned that the quartermaster's department would have given him plenty of transportation if he had applied for it at any time after he arrived at Alexandria.

McClellan persisted in his efforts to arrest Franklin's march towards Pope. At noon of the same day he telegraphed Halleck as follows: —

Your telegram received. Do you wish the movement of Franklin's corps to continue? He is without reserve ammunition and without transportation.

A little later he telegraphed: —

Franklin has only 10,000 or 11,000 men ready for duty. How far do you wish this force to advance?

An hour later he telegraphed for leave to do as seemed best to him with all the troops in the vicinity, including Franklin, who he thought "ought not under the present circumstances to proceed beyond Annandale."

To this Halleck replied in the following peremptory terms: —

I want Franklin's corps to go far enough to find out something about the enemy. Perhaps he may get such information at Annandale as to prevent his going further. Otherwise he will push on towards Fairfax. Try to get something from the direction of Manassas, either by telegraph or through Franklin's scouts. Our people must move actively, and find out where the enemy is. I am tired of guesses.

Although Franklin obtained no information at Annandale concerning the enemy, McClellan halted him there, in disobedience to the order which required him in such case to "push on towards Fairfax." Being called to account for this act, he declared that he simply exercised the discretion given him, and then asked for "distinct orders in reference to Franklin's movements for to-morrow." At 10 P. M. of the same night he had at last ordered Franklin "to place himself in communication with General Pope by advancing as soon as possible." At 11 A. M. of the 30th he had instructed Franklin and Sumner "to join Pope as promptly as possible." At 5 P. M. he telegraphed that he had infor-

mation that Franklin's corps was advancing rapidly at 1.30, and that Sumner's corps moved at 1.45 P. M. They never reached Pope until the campaign was lost. General McClellan's predictions to his wife, already quoted, were thus fulfilled. On the 31st he wrote her that but two corps of his army were present at this battle, viz., those of Porter and Heintzelman. These numbered 18,000.

General Pope says in his report: —

It seems proper for me, since so much misrepresentation has been put into circulation as to the support I received from the Army of the Potomac, to state here precisely what forces of that army came under my command and were at any time engaged in the active operations of the campaign. Reynolds's division of Pennsylvania Reserves, about 2500 strong, joined me on the 23d of August at Rappahannock Station. The corps of Heintzelman and Porter, about 18,000 strong, joined me on the 26th and 27th of August at Warrenton Junction.

The Pennsylvania Reserves under Reynolds, and Heintzelman's corps, consisting of the divisions of Hooker and Kearney, rendered most gallant and efficient services in all the operations which occurred after they had reported to me. Porter's corps, from unnecessary and unusual delays and frequent and flagrant disregard of my orders, took no part whatever except in the action of the 30th of August. This small fraction of 20,500 men are all of the 91,000 veteran troops from Harrison's Landing that ever drew trigger under my command, or in any way took part in that campaign.[1]

The Union losses in this campaign of northern Vir-

[1] *War Records*, vol. xii. part ii. p. 46.

ginia are officially reported as follows: killed, 1747; wounded, 8452; captured or missing, 4157; total, 14,356.

The rebel losses (official) were: killed, 1090; wounded, 6154; total, 7244.

CHAPTER LXVII

Alarm at Washington. — McClellan's Removal advocated by a Majority of the Cabinet.

McClellan's downright refusal to obey the order of the general-in-chief, to move Franklin's corps to the support of Pope, seemed to Stanton conclusive evidence that the public safety required a change in the command of the Army of the Potomac. All through the 27th and 28th of August, General Halleck had used the telegraph wires in the War Department to reiterate the order, while General McClellan had used them as often to send insubordinate replies, showing his determination not to obey it. The President, General Halleck, and Mr. Stanton were together at the War Department, and no doubt anxiously discussed the telegrams sent to McClellan, and his answers to the same. They were confronted with the most important crisis of the war. The President and his general-in-chief had, during the ten days preceding the 13th of August, found themselves utterly unable, by the most imperative orders, to compel McClellan to take a single step towards withdrawing the Army of the Potomac from the peninsula, where it was entirely idle, although he knew that Lee was then marshaling his forces for the destruction of Pope's army, and the invasion of the capital. And now that he had arrived at Alexandria, he was manifesting the

same determination not to participate in repelling the advance of the enemy. In order to have the record of these facts clearly presented, Secretary Stanton addressed the following letter to General Halleck, August 28: —

I desire you to furnish me information upon the following points: —

1st. At what date you first ordered the general commanding the Army of the Potomac to move from the James River.

2d. Whether that order was or was not obeyed according to its purport with the promptness which, in your judgment, the national safety required, and at what date the movement commenced.

3d. What order has been given recently for the movement of Franklin's corps, and whether it was obeyed as promptly as the national safety required.

4th. You will furnish me copies of the orders referred to in the foregoing inquiries.

Following are extracts from General Halleck's reply:

In reply to your note of last evening I have to state —

First. That on the 30th of July I directed General McClellan to send away his sick as quickly as possible, preparatory to his moving in some direction. Receiving no answer, the order was repeated August 2. On the 3d of August I directed him to withdraw his entire army from Harrison's Landing and bring it to Acquia Creek.

Second. That the order was not obeyed with the promptness I expected and the national safety in my opinion required. It will be seen from my telegraphic correspondence that General McClellan protested against the movement, and that it was not actually commenced until the 14th instant.

To the third question he replied by a summary of the

dispatches which had passed between him and McClellan relative to the order for Franklin's corps to move to the support of Pope. These have been summarized in the preceding chapter. Further evidence of McClellan's frame of mind was given in a dispatch addressed by him to the President on August 29, in which he said: —

> I am clear that one of two courses should be adopted. First, to concentrate all our available forces to open communications with Pope. Second, to leave Pope to get out of his scrape and at once use all our means to make the capital perfectly safe.

As he had prevented large available forces under his command from opening communications with Pope, it was evident that of the two courses suggested by him his desire was to abandon Pope and turn him over to the enemy, while the Army of the Potomac should take refuge in the defenses of Washington under his own command.

Mr. Stanton then prepared a letter to the President, to be signed by members of the Cabinet, recommending the immediate removal of General McClellan from all command as an act necessary for the safety of the nation. This letter was as follows: —

> Mr. President, — The undersigned feel compelled by a profound sense of duty to the government and the people of the United States, and to yourself as your constitutional advisers, respectfully to recommend the immediate removal of George B. McClellan from any command in the armies of the United States. We are constrained to urge this by the conviction that after a sad and humiliating trial of twelve months and by the frightful and useless sacrifice of the lives of many

thousand brave men and the waste of many millions of national means, he has proved to be incompetent for any important military command, and also because by recent disobedience of superior orders and inactivity, he has twice imperiled the fate of the army commanded by General Pope, and while he continues in command will daily hazard the fate of our armies and our national existence, exhibiting no sign of a disposition or capacity to restore by courage and diligence the national honor that has been so deeply tarnished in the eyes of the world by his military failures. We are unwilling to be accessory to the destruction of our armies, the protraction of the war, the waste of our national resources, and the overthrow of the government, which we believe must be the inevitable consequence of George B. McClellan being continued in command, and seek, therefore, by his prompt removal to afford an opportunity to capable officers under God's providence to preserve our national existence.

Mr. Chase states in his diary[1] that on the 30th he went to the War Department, where Watson showed him this paper. He adds: —

I suggested modifications. Afterwards saw Stanton. He approved the modifications, and we both signed the paper.

I then took it to Secretary Welles, who concurred in our judgment, but thought the paper not exactly right and did not sign it. Returned the paper to Mr. Stanton.

Says Mr. Welles:[2] —

I declined to sign the paper which was in the handwriting of Mr. Stanton, not that I did not disapprove of the course of the general, but because the combination was improper and disrespectful to the President.

[1] Warden's *Life of Chase*, page 456.

[2] *Lincoln and Seward*, by Ex-Secretary Welles, Sheldon & Company, page 193.

No further attempt was made to obtain signatures to the protest in that form. Mr. Welles continues thus: —

On Monday, the 1st of September, the paper somewhat modified and signed by four of the cabinet officers was brought to me. My refusal and perhaps my remarks prevented the matter from going further. . . . The President never knew of this paper.

This document, which is in the handwriting of Attorney-General Bates, is as follows: —

The undersigned, who have been honored with your selection as a part of your confidential advisers, deeply impressed with our great responsibility in the present crisis, do but perform a painful duty in declaring to you our deliberate opinion that at this time it is not safe to intrust to Major-General McClellan the command of any army of the United States.

And we hold ourselves ready at any time to explain to you in detail the reasons upon which this opinion is founded.

EDWIN M. STANTON,
Secretary of War.
S. P. CHASE,
Secretary of the Treasury.
CALEB B. SMITH,
Secy. Interior.
EDWD. BATES,
Atty. Genl.

TO THE PRESIDENT.

The biographers of Mr. Lincoln support the statement of Mr. Welles that it was never sent to the President. Its signers doubtless knew that Mr. Lincoln shared their opinion that General McClellan had been unfaithful

The undersigned, who have been honored with your selection, as a part of your confidential advisers, deeply impressed with our great responsibility in the present crisis, do but perform a painful duty in declaring to you our deliberate opinion that, at this time, it is not safe to entrust to Major General McClellan the command of any army of the United States.

And, we hold ourselves ready, at any time, to explain to you in detail, the reasons upon which this opinion is founded.

To the President.

Edwin M Stanton
Secretary of War

S. P. Chase
Sec. of the Treasury

Caleb B Smith
Sec'y Interior

Edw Bates.
Atty Genl

to the national cause. We have the authority of his biographers that on the 30th of August he said, concerning General McClellan, to Mr. John Hay, then one of his secretaries, who recorded the words in his diary: —

He has acted badly towards Pope; he really wanted him to fail.[1]

[1] Nicolay and Hay's *Lincoln*, vol. vi. p. 23.

CHAPTER LXVIII

President Lincoln's Opinion of McClellan's Conduct. — He nevertheless continues him in Command under Compulsion. — The Reasons which governed him. — Stormy Cabinet Meeting. — Stanton refuses to issue the Order placing McClellan in Command.

LATER, on the 31st of August, the following alarming dispatch was received from General Pope: —

I should like to know whether you feel secure in Washington should this army be destroyed. I shall fight it as long as I can get a man to stand up to the work. You must judge what is to be done, having in view the safety of the capital.

Although the government had knowledge that a terrible battle had been fought the day before, this was the first information received as to the extent of the disaster. It was now evident that nothing stood between Lee's forces and the capital but a routed and panic-stricken army.

Two days later, the 2d of September, the President gave McClellan command of the defenses of Washington, and shortly afterwards of Pope's defeated army.

In his account of the cabinet meeting of that day, Mr. Gideon Welles, Secretary of the Navy, says: [1] —

[1] *Lincoln and Seward*, p. 194.

At the stated cabinet meeting on Tuesday, the 2d of September, while the whole community was stirred up and in confusion, and affairs were gloomy beyond anything that had previously occurred, Stanton entered the council room a few moments in advance of Mr. Lincoln, and said, with great excitement, that he had just learned from General Halleck that the President had placed McClellan in command of the forces in Washington. The information was surprising, and, in view of the prevailing excitement against that officer, alarming. The President soon came in, and in answer to an inquiry from Mr. Chase confirmed what Stanton had stated. General regret was expressed, and Stanton, with some feeling, remarked that no order to that effect had issued from the War Department. The President calmly, but with some emphasis, said the order was his, and he would be responsible for it to the country. . . . Before separating, the Secretary of the Treasury expressed his apprehension that the reinstatement of McClellan would prove a national calamity.

Mr. Chase, Secretary of the Treasury, thus describes the scene : —

The Secretary of War came in. In answer to some inquiry the fact was stated by the President or the Secretary that McClellan had been placed in command of the forces to defend the capital, — or rather, to use the President's own words, "he had set him to putting these troops into the fortifications about Washington," believing that he could do that better than any other man.

I remarked that this could be done equally well by the engineer who constructed the forts.

The Secretary of War said that no one was responsible for the defense of the capital; that the order to McClellan was given by the President direct to McClellan, and that General Halleck considered himself relieved from the responsibility, although he acquiesced and approved the order; that

McClellan could now shield himself, should anything go wrong under Halleck, while Halleck could and would disclaim all responsibility for the order given.

The President thought General Halleck as much responsible as before, and repeated that the whole scope of the order was simply to direct McClellan to put the troops into the fortifications and command them for the defense of Washington.

I remarked that I could not but feel that giving the command to him was equivalent to giving Washington to the rebels. This and more I said.

The President said it distressed him exceedingly to find himself differing on such a point from the Secretary of War and the Secretary of the Treasury; that he would gladly resign his place, but he could not see who could do the work wanted as well as McClellan. I named Hooker, or Sumner, or Burnside, either of whom could do the work better.

The order placing McClellan in command, as originally drafted, was as follows: —

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
WASHINGTON, September 2, 1862.

By direction of the President, Major-General McClellan will have command of the fortifications of Washington and all the troops for the defense of the capital.

By order of the Secretary of War.

E. D. TOWNSEND,
Assistant Adjutant-General.

Secretary Stanton would not permit it to go out as having been issued "by order of the Secretary of War," and it was accordingly changed into the following form: —

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
WASHINGTON, September 2, 1862.

Major-General McClellan will have command of the fortifications of Washington and of all troops for the defense of the capital.

By order of Major-General Halleck.

E. D. TOWNSEND,
Assistant Adjutant-General.

It will be observed that it is not stated in the order as finally issued that it was made by direction of the President. General Halleck was required to assume his proper responsibility. In a letter to General Pope, of October 10, 1862, Halleck said: —

> The assignment of General McClellan to the command, or rather his retention in it, was not my act, nor that of the War Department. It was the act of the President alone. I did not even know of his decision in the matter until he himself announced it to General McClellan.

From all this it is quite evident that the retention of McClellan in command of the Army of the Potomac was a surprise to all; even Secretary Welles, who had refused to sign the protest, on grounds of taste only, declared that it was not only surprising, but alarming. The fact that his removal was so confidently expected must have caused the withholding of the cabinet protest. Its authors might well have deemed it unnecessary and supererogatory to recommend the President to do that which they could not doubt he would do without their advice.

What had caused this change in the President's mind? Why was it that, on the 30th of August, he

believed McClellan was false to the army and that he had contributed willfully to its defeat, and yet that, on the 2d of September, he alone could safely command that army? If, as he had said, McClellan really "wanted Pope to fail," the fact could have been known to the President only by the acts and omissions by which he aided to produce the failure; and these were manifest enough by his refusal to send reinforcements. We have the testimony of Mr. Lincoln's biographers that he had not, on the 2d of September, changed his opinion as to McClellan's desire to see Pope's army defeated. They say: —

> After he had placed him again in command of the Army of the Potomac he repeated this severe judgment, but he added: "There is no one in the army who can man these fortifications and lick these troops of ours into shape half as well as he can." [1]

This could not have been Mr. Lincoln's reason, nor does it appear to have been given as such by him. It was merely his remark. It is beyond belief that, without compulsion, he would have intrusted the defense of the capital and the command of the army to one who, in his estimation, had already dishonored himself by desiring the Army of Northern Virginia, under Pope, to fail, and by contributing to its failure.

Two considerations undoubtedly controlled Mr. Lincoln in this crisis, both having an important bearing on the national safety. One of these was the protection of the national capital from immediate danger. For this purpose he deemed it necessary to avoid the

[1] Nicolay and Hay's *Lincoln*, vol. vi. p. 23.

dissatisfaction in the army which might have followed the removal of McClellan at that time. The latter was exceedingly popular with a large portion of the army, and his partisans among the general officers had spared no efforts to create the feeling that McClellan was the greatest commander of his generation, and would have easily suppressed the rebellion before that time, if he had not been prevented by "politicians" like Lincoln and Stanton. For a second time the country had been stunned by a defeat at Bull Run. However clear it was to the President that McClellan was responsible for this defeat, through the causes already recited, the fact existed that the defeated army had been commanded by General Pope. The McClellan faction among army officers, the McClellan press throughout the country, and the whole party of the opposition industriously diverted attention from the course of McClellan by denunciations of Pope. The public wrath aroused by this disaster easily made the latter its victim.

The remaining consideration in Mr. Lincoln's mind, and not the least important, was the state of the public mind throughout the country, and how it would be affected by the retirement of McClellan. The leaders of the opposition were making tremendous efforts to carry the approaching elections for congressmen. They were for peace by compromise, wherever that would secure the most support, and they professed to be for war for the Union where they could by that course divide the Union element and unite a portion of it with the sympathizers of the rebellion. In the powerful and loyal State of New York they took bold ground "for

a more vigorous prosecution of the war." As half of them had been continuously denouncing the war as "unholy," because it endangered the sacred cause of slavery, a humorist of the day[1] had it that they were in favor of "a more vigorous prosecution of this unholy war." This party was loud in its praises of McClellan and bitter in its denunciations of the administration. Mr. Lincoln knew that thousands of patriotic men believed in McClellan and were stoutly prejudiced against himself. He deemed it of the highest importance that these men should be saved to the Union party in the coming struggle at the polls, for the loss of the lower house of Congress and its capture by the enemy would have been a greater disaster than the loss of a military campaign. And so, with a self-restraint which few men have attained, he chose between the two evils, and deemed the lesser one to be that which was most galling to himself and his counselors, and most unjust towards some high military officers who had rendered faithful and able service.

The retention of McClellan under such circumstances was, therefore, Mr. Lincoln's submission to what he deemed the inevitable. McClellan was enjoying all the power of a military conqueror, and the President was, for the time being, virtually his captive in war.

[1] Newell, — "Orpheus C. Kerr."

CHAPTER LXIX

Lee's Invasion of Maryland. — McClellan sent into the Field by the President. — Discovery of Lee's Plans. — Failure to act upon the Knowledge. — Battle of Antietam. — The Entire Enemy engaged against a Portion only of the Union Forces. — Porter not in the Action. — McClellan treats it as a Drawn Battle until after Lee's Escape into Virginia.

General Lee followed up his victory over Pope by the invasion of Maryland, — crossing the Potomac on the 5th of September, and occupying the city of Frederick on the 6th. The Confederate army encamped unmolested for five days on a line between Frederick and the Potomac River, and rebel recruiting offices were opened in Frederick. On the 8th General Lee issued a proclamation, assuring the people of Maryland that he was only there to aid them in throwing off the foreign yoke, and to assist them in regaining their rights. The expectation of the Confederate authorities was that Maryland would fall into the arms of the Confederacy at once, if relieved from the pressure of Federal force. In this they were entirely disappointed. They obtained neither recruits nor contributions worthy of mention.

The advance of Lee towards the Potomac created an imperative necessity for the utmost activity on the part of the Union army. On the 3d of September the

President ordered General Halleck to immediately commence and proceed with all possible dispatch to organize an army for active operations. On the same day General Halleck wrote to General McClellan that there was every probability that the enemy, baffled in his intended capture of Washington, would cross the Potomac and make a raid into Maryland or Pennsylvania, and that a movable army must be immediately organized to meet him. He directed him to report what force could be prepared within the next two days to take the field, supplied and ready for service.

On the 5th General Halleck informed McClellan that there was no doubt the enemy were crossing the Potomac in force, and that he had better dispatch General Sumner and additional forces to follow. "If you agree with me," he wrote, "let our troops move immediately."

On the same day the President relieved from their respective commands Generals Fitz John Porter, Franklin, and Griffin until charges against them could be investigated by a court of inquiry. The armies of the Potomac and northern Virginia were consolidated, and Major-General Pope was ordered to report to the Secretary of War as a witness before the court of inquiry. On the following day (6th) McClellan wrote to Halleck: —

> It will save a great deal of trouble and invaluable time if you will suspend the operation of the order in regard to Franklin and Porter until I can see my way out of this difficulty. I wish to move Franklin's corps to the front at once.

Of course McClellan was given his way.

Although on the 2d he had been assigned only to the command of the defenses of Washington, he was, on the 7th, placed in command of the troops that were to go into the field. General Halleck, in his testimony before the Committee on the Conduct of the War, stated that this order was given verbally to General McClellan by the President, at McClellan's house, on the morning of the day that he left the city for Rockville. General Halleck said: —

> The question was discussed by the President for two or three days as to who should take command of the troops that were to go into the field. The decision was made by himself and announced to General McClellan in my presence.

The instruction given him by the President was: "You must find and hurt this enemy now."

On the 8th of September McClellan's headquarters were at Rockville, seventeen miles from Washington, from whence he telegraphed to General Wool at Baltimore that his information regarding the enemy's movements was very vague and conflicting, and requesting that general's coöperation. McClellan's movements were characteristically slow.

Lee's army had resumed its march northward on the 10th, a portion under General Jackson being ordered to move upon the Baltimore and Ohio Railroad at Martinsburg; another under General Longstreet to Boonesboro; another to seize Maryland Heights and capture Harper's Ferry; while yet another under General Walker was to take possession of Loudon Heights.

McClellan advanced towards Frederick with such deliberation that he did not arrive there until the 12th,

after the departure therefrom of Lee's rear-guard. Here he had the good fortune to have brought to him by one of his officers the special order of General Lee, dated September 9, in which the rebel commander fully disclosed his plans.

This had been found by a private soldier in the army. General McClellan makes the following reference to it: —

On the 13th an order fell into my hands issued by General Lee which fully disclosed his plans, and I immediately gave orders for a rapid and vigorous forward movement.[1]

This gave McClellan an opportunity probably never before given to a commander, namely, to know, with precision, the disposition of the enemy's forces without having his own known to his antagonist.

Concerning this disposition of his army by Lee, and McClellan's failure to take advantage of it, the Confederate General Longstreet, thirty years later, made the following criticism, while revisiting the battle ground: —

He, McClellan, lost a great opportunity here on this Sharpsburg field. No general could ask for a better. Commanding a greatly superior army, opposing an enemy divided by the Potomac, the Shenandoah, and the Blue Ridge, into four weak isolated parts, whose location he absolutely knew from General Lee's dispatches, which had actually fallen into his hands, McClellan's failure, not only to relieve Harper's Ferry, but to destroy at least one of the segments of General Lee's army, must be considered about the most disastrous failure of the war on either side.

Properly General McClellan should have fallen upon Gen-

[1] *Own Story*, page 572.

eral D. H. Hill at Traver's Pass, and poured his troops through Cumberland Gap upon McLaw's and Anderson's rear, with the Potomac River at Harper's Ferry rising in front of them. There was no escape for them, and by this movement Harper's Ferry would have been wrested from us that day. Instead, McClellan elected to turn forward upon us and fight at Traver's Pass, where he lost eighteen hours, and then, after another delay of thirty-six hours, he attacked me in a chosen position beyond the Antietam. Sharpsburg[1] was the greatest single day's battle of the war, and involved the greatest losses on both sides.[2]

Harper's Ferry was surrendered on the morning of the 15th. The conduct of the officers who surrendered it became the subject of an investigation by a military commission, of which Major-General David Hunter was president. In its report that commission said: —

The general-in-chief (Halleck) has testified that General McClellan, after having received orders to repel the enemy invading the State of Maryland, marched only six miles a day, on an average, when pursuing this invading enemy.

The general-in-chief also testifies that in his opinion he could and should have relieved and protected Harper's Ferry, and in this opinion the commission fully concur.

The battle of South Mountain was fought on the 14th, in which the Union forces were victorious, and the enemy, as usual, successful in getting away without interruption during the night which followed.

McClellan now had two days in which to avail himself of the knowledge he had of Lee's plans. He knew

[1] In Union reports known as the battle of Antietam.

[2] Interview of General Longstreet with Leslie Perry of the War Records Bureau of the War Department, published in the *Washington Post* of June 11, 1893.

that Lee's army was divided, and that a large portion of his force was across the Potomac. He could, on the 15th or the 16th, have fought a portion of Lee's army with the whole of his own. He chose to wait until the 17th, when the enemy's forces were reunited, and then was fought the battle of Antietam, one of the most desperate battles in the history of warfare; but in the fighting of which he did not deem it necessary to engage the whole of his own forces. The corps of General Fitz John Porter was not brought into the action at all. Says the Committee on the Conduct of the War: —

General Hooker testifies that he had been given to understand that there were to be attacks simultaneously on the right, centre, and left of our army. He attacked at dawn. But General Burnside, on the left, was not ordered to attack until ten o'clock, and there was no attack made in the centre by General Porter.[1]

General Sumner testified: —

I have always believed that instead of sending these troops into that action in driblets, as they were sent, if General McClellan had authorized me to march these forty thousand men on the left flank of the enemy, we could not have failed to throw them right back in front of the other divisions of our army on our left, — Burnside, Franklin, and Porter's corps. As it was, we went in division after division until even one of my own divisions was forced out. The other two drove the enemy and held the positions. My intention at the time was to have proceeded entirely on by their left and move down, bringing them right in front of Burnside, Franklin, and Porter.

[1] Report of the Committee on the Conduct of the War, part i. p. 41.

This, he testified, would have made the escape of the enemy impossible.

The Union losses were over 12,000, and the Confederate losses over 11,000.

In a private letter of September 18 McClellan wrote: —

> Those in whose judgment I rely tell me that I fought the battle splendidly, and that it was a masterpiece of art.[1]

He said also: —

> The general result was in our favor — that is to say, we gained a great deal of ground and held it. It was a success, but whether a decided victory depends on what occurs to-day.[2]

Hooker, Burnside, and Franklin all advised McClellan to renew the battle on the 18th. He took their advice under consideration, and while he was still endeavoring to make up his mind, Lee successfully withdrew his entire army across the Potomac and out of further danger. McClellan then indulged in transports of exultation by telegraph to the authorities at Washington, — that the enemy had left for Virginia, and Maryland and Pennsylvania were saved. Not to have been whipped was always victory enough for him, and not to have been driven from his position was the only fruit he ever cared to gather as the result of a victory.

Major John J. Key, a brother to Colonel T. M. Key, of McClellan's staff, being asked why the rebel army was not captured after the battle of Antietam, replied: —

[1] *Own Story*, page 612. [2] *Ibid.*

That was not the game. That we should tire the rebels out and ourselves — that was the only way the Union could be preserved; we come together fraternally and slavery be saved.

President Lincoln called Major Key before him, with the officer (Major Turner) to whom the remark had been made, and examined them. He dismissed Key from the military service upon the ground stated by himself in the record, that, "if there was a game, even among Union men, to have our army not take advantage of the enemy when it could do so, his object was to break up that game." He afterwards said to Mr. Hay, one of his secretaries: "I dismissed Major Key because I thought his silly, treasonable expressions were 'staff talk,' and I wished to make an example." [1]

The valor of our troops at Antietam electrified the country, and the great losses sustained were accepted by many as evidence of the greatness of McClellan.

On the 20th he wrote his wife: —

Our victory was complete, and the disorganized rebel army has rapidly returned to Virginia.[2]

Later in the day he wrote: —

I feel that I have done all that can be asked in twice saving the country. If I continue in its service, I have at least the right to demand a guarantee that I shall not be interfered with. I know that I cannot have that assurance as long as Stanton continues in the position of Secretary of War and Halleck as general-in-chief.[3]

He must have been surprised at his own moderation

[1] *Abraham Lincoln — A History*, vol. vi. p. 188.
[2] *Own Story*, page 613. [3] *Ibid.*

in not including President Lincoln in the list of those to be removed.

On the 22d he wrote that he looked upon the campaign as substantially ended; that he would go to work and reorganize the army somewhere near Harper's Ferry or Frederick for another campaign. He would not, he said, go to Washington.[1]

On the 25th he wrote: —

It is very doubtful whether I shall remain in the service after the rebels leave this vicinity.[2]

He continued: —

The President's late proclamation, and the continuation of Stanton and Halleck in office, render it almost impossible for me to retain my commission and self-respect at the same time.

The proclamation was the preliminary one relative to emancipation, and was dated September 22.

Concerning this he wrote to his wife on the 5th of October, the day following the conclusion of the President's visit: —

Mr. Aspinwall is decidedly of the opinion that it is my duty to submit to the President's proclamation, and quietly continue at my duty as a soldier. I presume he is right, and am at least sure he is honest in his opinion. I shall surely give his views my full consideration.[3]

[1] *Own Story*, page 614. [2] *Ibid.*, page 615. [3] *Ibid.*, page 655.

CHAPTER LXX

McClellan refuses to follow the Enemy. — His Varied Excuses shown to be without Foundation. — The President's Orders disobeyed. — Unable to overcome McClellan's Insubordination, he removes him from Command. — McClellan's Statement that he was urged to revolt and march against Washington.

FROM the 18th of September to the 5th of November General McClellan pursued his fixed policy of inaction, procrastination, and insubordination. He would neither do nor attempt anything to embarrass the safe retreat of Lee and the recuperation of his army. His conduct fully vindicated the opinion which Mr. Stanton and a majority of his cabinet associates had expressed the last of August, and as it compelled Mr. Lincoln finally to remove him from command, a brief statement of it is here given.[1]

At eight o'clock on the morning of September 18 McClellan telegraphed Halleck that the battle would probably be renewed that day, and requested him to send all the troops he could. This was at once responded to. At the same time the railroads were crowded with ammunition and supplies forwarded to Frederick and Hagerstown. Special trains were put on, with orders to make express passenger time. Secretary

[1] The dispatches cited in this chapter are from vol. xix. of the *War Records*.

Stanton devoted himself to this work, receiving special reports of the movements of trains, and remaining in his office through most of the night for that purpose. The battle was not renewed.

On the 19th McClellan telegraphed Halleck that the enemy had abandoned his position,—"We are again in pursuit," and "We may safely claim a complete victory." And later he telegraphed: "Our victory is complete; the enemy is driven back into Virginia."

McClellan had a superior force, but neither that advantage nor Lee's distance from home furnished inducement for him to pursue the retreating enemy.[1]

On the night of the 20th, however, he telegraphed Halleck, suggesting that, inasmuch as Lee was dependent upon Richmond for supplies of ammunition and provisions, General Banks, who commanded the defenses of Washington, should send out a cavalry force to embarrass Lee's operations.

Halleck had telegraphed him earlier on that day:—

> We are still left entirely in the dark in regard to your own movements and those of the enemy. This should not be so. You should keep me advised of both so far as you know them.

This reasonable requirement by his superior elicited the following reply from him:—

[1] The relative strength of the two armies at Antietam was as follows: McClellan certified that on the morning of the 20th of September there were in his entire command and present for duty 164,359, of which 71,210 were in the defenses of Washington, leaving his command outside of Washington over 93,000. As our loss at Antietam on the 17th was 12,000, his strength in that battle must have been 105,000. Lee in his report states his force at less than 40,000.

I regret that you find it necessary to couch every dispatch I have the honor to receive from you in a spirit of fault-finding, and that you have not found leisure to say one word of commendation of the recent achievements of this army, or even to allude to them.

To this General Halleck replied that the government had been most anxious for two days to obtain the information that the enemy had crossed the Potomac into Virginia.

On the 22d McClellan telegraphed to General Halleck: —

The army corps have been badly cut up and scattered by the overwhelming numbers brought against them in the battle of the 17th, and the entire army has been greatly exhausted by unavoidable overwork, hunger, and want of sleep and rest. When the enemy recrossed the Potomac, the means of transportation at my disposal were inadequate to furnish a single day's supplies of subsistence in advance.

For this reason he did not feel authorized to cross the river in pursuit of the retreating enemy, and place that stream between his army and its base of supplies. He said he would reorganize the army. He announced his purpose of pushing a large force into the Shenandoah Valley. A large body of the enemy was still quite near.

On the 23d he telegraphed that there were indications of heavy reinforcements moving towards Lee and Jackson. He thought that the fact of the enemy remaining so long in his front, and the indications of reinforcements, were evidence that he would soon give battle with all his available forces. For this reason he

wanted all the reinforcements that could be dispensed with around Washington and other places. He thought a defeat at this juncture would be ruinous to the cause. He was sure Washington was in no danger, and that his army was. He said: —

> I cannot think it possible that the enemy will bring any forces to bear upon Washington till after the question is decided here. But, if he should, troops can be sent back from this army by rail to reinforce the garrisons there.

Just what question was to be decided there is not very clear. It hardly seemed to be a question whether a retreating army of less than half the strength of his own, and dependent upon Richmond for ammunition and supplies, would turn back, recross the upper Potomac, and give him another battle in Maryland. Later on the same day he telegraphed further to the same effect.

On the 24th he made a call for twenty new regiments. He said he "would be glad to have more than double that number with the least possible delay." On the same day he called upon Halleck for the construction of a permanent double-track bridge over the Potomac at Harper's Ferry, 900 feet long, to be built on crib piers filled with stone. Until such a bridge was finished, he thought it scarcely possible to advance from Harper's Ferry in force; and, as that was clearly our true line of operations, he thought the importance of the bridge would be obvious!

On the 25th he again learned that the entire rebel army was expected to give us another battle, and "were anxious for us to cross the river." Halleck

replied to McClellan that before authorizing the building of bridges over the Potomac, he must know more definitely of his plans. He reminded him that the enemy were at that time threatening the capital and the army there. He was unwilling to supply him with reinforcements with which to drive Lee towards Washington.

On the 26th General Halleck called upon General McClellan for a full understanding in regard to his future operations. He especially desired to know whether he intended to move his force up the Shenandoah Valley, leaving Lee free to move upon Washington through any gap in the mountains, or whether he would so regulate his movements as to cover Washington. McClellan replied that it was his purpose to hold the army where it was, and attack the enemy if he should attempt to cross into Maryland. He dwelt upon the weakness of his army, and, of course, wanted large reinforcements. As soon as the river was high he would concentrate the army somewhere near Harper's Ferry, and "then act according to circumstances, namely, moving on Winchester, if from the position and attitude of the enemy we are likely to gain a great advantage by doing so; or else, devoting a reasonable time to the organization of the army and instruction of the new troops, preparatory to an advance on whatever line may be determined." That is to say, he had no plan whatever, and would therefore sit still, clamor for reinforcements, drill new troops, and defend if attacked. He had no fears for Washington, and the fears of his superior officer were not worth considering.

He wanted to strip Washington of all but a force necessary to garrison its defenses and be allowed to take his own course. Under these conditions, he would hold himself responsible for the safety of Washington.

It is strange reading to-day, — McClellan's letter to Halleck of September 27, 1862, calling for the troops needed for the safety of Washington to be sent to him fifty miles away, after definitely stating that he had no use for these reinforcements; that he had no intention of making any advance; and that if Lee should attack the capital he could send troops for its defense. He could send to its defense the troops which, without any purpose whatever, he had called away from there.

Inconsequential dispatches were received from him the last three days in September, and on the 1st of October the President visited him at his headquarters. The object of this visit was to endeavor to make McClellan do something. It was a fruitless mission. To a friend the President remarked that the forces under McClellan were not the Army of the Potomac, but only "McClellan's body-guard."

On the 4th General Halleck telegraphed McClellan of rumors that Longstreet was moving to Leesburg, intending to cross the river there, while Jackson would remain to hold our army in check at Harper's Ferry. This elicited no reply. On the 6th of October, suggestions and persuasions having resulted in nothing, the President decided to command. General Halleck wrote as follows: —

MAJOR-GENERAL MCCLELLAN, — I am instructed to telegraph you as follows: The President directs that you cross

the Potomac and give battle to the enemy or drive him South. Your army must move now while the roads are good. If you cross the river between the enemy and Washington and cover the latter by your operations, you can be reinforced with 30,000 men. If you move by the valley of the Shenandoah, not more than 12,000 or 15,000 can be sent you. The President advises the interior line between Washington and the enemy, but does not order it. He is very desirous that your army move as soon as possible. You will immediately report what line you adopt, and when you intend to cross the river; also to what point reinforcements are to be sent. It is necessary that the plan of your operations be positively determined on before orders are given for building bridges and repairing railroads. I am directed to add that the Secretary of War and the general-in-chief fully concur with the President in these instructions.

It was just twenty days after this peremptory order before McClellan made a move. Indifferent to the President's authority, and indifferent to the great advantage gained by the enemy by his delay, he dealt with the situation as he pleased; and he pleased to deal with it in the manner that would be most injurious to the national cause. The moral effect of his delay upon the country was little better than as though he had marched his army in retreat to Philadelphia. If "actions speak louder than words," inaction sometimes speaks louder than either. The invasion of Maryland had created a panic throughout the country. The invasion of Pennsylvania had seemed imminent. If the battle of Antietam was a Federal victory, McClellan had at first treated it as something less. He had stood as if paralyzed, pleading for reinforcements to protect him from

another encounter which he feared the enemy was about to seek. These twenty days of insubordinate idleness and sullen defiance of authority were occupied by McClellan in demands for horses, tents, clothing, and supplies of all kinds, of which it was demonstrated he already had all that he needed.

Although he did not move, he busily wrote about moving. On the 7th of October he assured General Halleck that not an hour should be lost in carrying his instructions of the 6th into effect. He said he should cross into Virginia at Harper's Ferry. Three corps would, however, be unable to move until they received shoes and other articles of clothing. He also wanted reinforcements.

The War Department had, on the 24th of September, published the President's proclamation of September 22, announcing his purpose of issuing an emancipation proclamation on the 1st of January unless the rebels should in the mean time lay down their arms. McClellan, on the 7th of October, issued a general order referring to this proclamation, and defining the relations between persons in the military service and the civil authorities of the government. In this order he stated the duty of the armed forces to sustain the civil authorities in making, expounding, and executing the federal laws. He said the civil authorities must determine the objects of the war and the armies must receive all orders through the President.

Discussions by officers and soldiers concerning public measures determined upon and declared by the government, when carried at once beyond temperate and respectful expressions

of opinion, tend greatly to impair and destroy the discipline and efficiency of troops. . . . The remedy for political errors, if any are committed, is to be found only in the action of the people at the polls.

This might fairly be taken, and was undoubtedly intended, as a stump speech against the proclamation, and an appeal to the people to vote it down the following month.

The following letter to Secretary Stanton from F. B. Cutting, a distinguished citizen and eminent lawyer of New York, is interesting and instructive in this connection. Its date, October 4, is three days prior to the order of General McClellan above referred to: —

On Thursday last in Baltimore (after I last saw you) I heard from authority satisfactory to me that General McClellan, in the presence of his staff and of a visitor, openly denounced the President's proclamation, and declared in substance that the army would not fight under it, and that if persisted in, he would not serve. My informant promised, as I understood him, to communicate the particulars to the President, whom he expected to meet in camp near Antietam the afternoon of the same day. If he has failed to meet the President, the facts, I think, can be ascertained by making inquiries of General Burnside or General McClellan himself. The general in command of an army may have his own opinion of the measures and policy of the administration, but if in time of war, and in the field, when unanimity of action is so indispensable, he should openly discuss and denounce them, it is certain that he gives aid and comfort to the enemy, creates political discussions among the troops, destroys their harmony and efficiency, and paralyzes the efforts of the government to subdue the rebellion. Prompt measures, it seems to me, ought to be adopted, if upon inquiry the infor-

mation given to me should prove to be correct, to arrest the further diffusion of this poison in the camp.

On the 10th of October General Halleck notified McClellan of a rebel raid made into Pennsylvania, and the temporary occupation of Chambersburg. McClellan replied that every disposition had been made to cut off the retreat of the enemy's cavalry. The next day he telegraphed that he had given every order necessary to insure the capture or destruction of these forces. On the 12th he reported to Halleck that the rebel cavalry under Stuart had been entirely around his army and safely escaped. He loudly called for more horses.

As the McClellan press was busy spreading the report that McClellan could not move for the want of cavalry horses, Mr. Stanton, on the 13th of October, called upon Quartermaster-General Meigs for information, in the following letter: —

General complaint is made by General McClellan of the inadequate supply of cavalry horses for his command. Your authority has been for a long time unrestricted in that regard, and you are expected to spare no effort to secure an adequate supply. You will please report what efforts have been made and are now making by your department for that purpose, and whether any and what authority, aid, or instructions can be given by the Secretary of War to accomplish the object.

To this General Meigs replied that from the 1st of September to the 11th of October, he had supplied to the Army of the Potomac 8754 horses. This was at the rate of 1459 a week; General McClellan had informed General Halleck that he had received an aver-

age of only 150 per week. Instead of 150 a week, he had received more than 200 a day. This statement was contradicted by McClellan, upon the alleged authority of a lieutenant-colonel and assistant quartermaster. To this General Meigs replied that his own statement and that of the lieutenant-colonel were both correct and not inconsistent. He said: —

> Both depend upon official reports, but reports of very different transactions. One is a whole, the other a part only of the issues.

To General Halleck McClellan telegraphed October 21 that ever since he had received the President's order (October 6) to move on the enemy, he had been making every exertion to get his army supplied with clothing. In fact, he wanted almost everything. Obedience by him to the President's order seemed out of the question as long as there was stationery on which to make requisitions for what he already had. General Meigs replied to this complaint in great detail in a letter to General Halleck of October 21, showing that his bureau had done its entire duty. That there had been some delay in the transportation of such an immense amount of supplies as was required by a vast army, he said, was unavoidable. But the measures resorted to to expedite the movements of the trains were shown to be most efficient. Indeed, McClellan admitted that he was pretty fully supplied on the 21st. On the 22d he telegraphed that he had decided to move upon the inner line indicated by the President in his letter of the 13th.

On the 25th of October the following letter was addressed by Mr. Stanton to General Meigs: —

It has been publicly alleged that the army under the command of General McClellan has been unable to move for want of shoes, which it is the duty of the quartermaster's department to furnish. You will please report whether there has been any failure or neglect to furnish shoes or other supplies to that army, or meet promptly any requisition for its supply upon your department.

To this General Meigs replied that every requisition of General McClellan's had been promptly met; that special agents had been sent with every shipment to prevent delay. He said: —

Ten days ago, I was assured that every such requisition had been filled and forwarded. Within the last two days, however, new and large requisitions have been received, which are being shipped as rapidly as possible.

That is to say that while McClellan had informed Halleck on the 21st that his wants were substantially all supplied, he had two days afterwards made "new and large requisitions." Of course the supply had to be constant, and, as Meigs said, "continuous, like that of a great city whose population it equals in number. Were every man well shod and clothed to-day, many would be in want to-morrow." After a complete investigation of the subject, the general-in-chief, in a letter to the Secretary of War on the 28th of October, said: —

In my opinion there has been no such want of supplies in the army under General McClellan as to prevent his compliance with the orders to advance against the enemy.

Mr. Lincoln telegraphed McClellan on the 25th, as follows: —

I have just read your dispatch about sore tongue and fatigued horses. Will you pardon me for asking what the horses of your army have done since the battle of Antietam that fatigues anything?

McClellan replied that they had been "making reconnoissances, scouting, and picketing."

McClellan would not yet move any of his troops until he had renewed a discussion as to the best line to take. This he did in a letter to General Halleck of October 25, and concluded by saying: —

An important element in the solution of this problem is the fact that a great portion of Bragg's army is probably now at liberty to unite itself with Lee's command. I commence crossing the river at Berlin in the morning, and must ask a prompt decision of the questions proposed herein.

Halleck declined to give him any orders as to the line he should adopt in advancing upon Lee. He said: —

The government has intrusted you with defeating and driving back the rebel army in your front. I shall not attempt to control you in the measures you may adopt for that purpose. You are informed of my views, but the President has left you at liberty to adopt them or not, as you may deem best.

I do not think that you need have any fear of Bragg's army. You are within twenty miles of Lee's, while Bragg is distant about four hundred miles.

At eight o'clock on the evening of October 26 McClellan at last telegraphed to Halleck that two divisions and one brigade of cavalry had crossed the Potomac. It was not until November 1, six days later, that he

telegraphed the President that all of the army except Franklin's corps had crossed the Potomac; that corps would follow on that day. Lee and his army had crossed forty-four days before.

On the 6th General Lee wrote to Jefferson Davis that McClellan's whole army was moving towards the Rappahannock. On the 7th the Federal forces occupied Warrenton.

Meanwhile, Longstreet had safely reached Culpeper Court House, news of which President Lincoln received on the 5th of November. It was then forty-nine days since the battle of Antietam and Lee's uninterrupted retreat. It was thirty days after the President had peremptorily ordered McClellan to cross the Potomac and give battle. Mr. Lincoln's biographers say: —

> The general's inexplicable slowness had at last excited the President's distrust. He began to think before the end of October that he had no real desire to beat the enemy. He set in his own mind the limit of his forbearance. He adopted for his guidance a test which he communicated to no one until long afterwards, on which he determined to pass his final judgment of McClellan. If he should permit Lee to cross the Blue Ridge and place himself between Richmond and the Army of the Potomac, he would remove him from command.

In a note to this it is stated that "these are the President's own words, taken down at the time they were uttered." This is upon the authority of the diary of Mr. John Hay, one of the President's secretaries at the time.[1]

[1] *Abraham Lincoln: a History*, vol. vi. p. 188.

On the 7th of November the following order was delivered to General McClellan at his headquarters near Rectortown: —

By direction of the President of the United States, it is ordered that Major-General McClellan be relieved from the command of the Army of the Potomac, and that Major-General Burnside take the command of that army.

By order of the Secretary of War.

The following letter from General Halleck was delivered to McClellan at the same time: —

General, — On receipt of the order of the President, sent herewith, you will immediately turn over your command to Major-General Burnside, and report to Trenton, N. J., reporting on your arrival at that place, by telegraph, for further orders.

These orders were made upon the general authority contained in the following executive order made by President Lincoln November 5: —

By direction of the President, it is ordered that Major-General McClellan be relieved from the command of the Army of the Potomac, and that Major-General Burnside take the command of that army. Also, that Major-General Hunter take command of the corps in said army which is now commanded by General Burnside.

That Major-General Fitz John Porter be relieved from the command of the corps he now commands in said army, and that Major-General Hooker take the command of said corps.

The general-in-chief is authorized, in his discretion, to issue an order substantially as the above, forthwith or so soon as he may deem proper.

A. Lincoln.

In his "Own Story," McClellan says: —

The order depriving me of the command created an immense deal of deep feeling in the army. So much so that many were in favor of my refusing to obey the order, and of marching upon Washington and taking possession of the government.[1]

Graciously declining to do this, he remained until the 10th, at Burnside's request, and then disappeared from the military field forever.

Mr. Stanton's old friend, Rev. Heman Dyer, wrote him November 11 for some information concerning the reasons for McClellan's removal from the command. To this Mr. Stanton replied as follows: —

Dear Sir, — Your note of the 11th instant has remained unanswered because of the pressure of business which has left me neither time nor strength to respond.

When General McClellan failed to obey the order of the President to move against the enemy, given on the 6th of October, I thought he ought to be removed upon the spot. Nearly a month's time — enough to have had a victorious campaign — was lost by his disobedience of orders. When his creatures and those who are enemies of the country undertook to apologize for his delay by the false pretense that he had needed supplies that were withheld from him by the War Department, my duty to the country required the exposure of the falsehood, and I demanded a report on the subject from the general-in-chief.

It is not my fault that he was not removed before the New York election, after his disobedience of orders. The loss of three weeks' time rests not on my shoulders. In respect to any combination by Mr. Chase, Mr. Seward, and myself against General McClellan, it is utterly false, for reasons

[1] *Own Story*, page 652.

needless to mention; fire and water would as soon combine. Each does his duty as he deems right. In respect to the imputation of selfish or ambitious motives, denial is useless. Those who make the imputation do it ignorant of my principles of action, or with prejudiced feelings, and, like all other public men, I must expect and patiently bear misconception and false report.

In respect to the present position of affairs all I can say is that the whole power of the government is being put forth with more vigor and I think more earnestness on the part of military commanders than at any former period. Treason is encouraged in the Northern States by the just discontent of the people. But believing our national destiny is as immediately in the hands of the Most High as ever was [that of] the children of Israel, I am not only undismayed, but full of hope.

For myself, turning neither to the right hand nor the left, serving no man and at enmity with none, I shall strive to perform my whole duty in the great work before us. Mistakes and faults I no doubt may commit, but the purpose of my action shall be single to the public good.

PART VII

EMANCIPATION. — DECISIVE UNION VICTORIES

CHAPTER LXXI

The Political Campaign of 1862. — Emancipation an Issue. — Schemes of the Peace Party as disclosed by its Leaders to the British Minister at Washington. — They favored an Armistice, with Peace or Disunion. — Union Losses at the Polls.

During the political campaign of 1862 the Northern enemies of the government substantially abandoned all discussion of the issues at stake between the rebellion and the Union, and devoted their energies to sowing dissensions among Union men, with the object of breaking down the administration of Abraham Lincoln.

During that summer a question of vital importance forced itself upon him for final consideration and determination, and this was the question of emancipation. From the commencement it had been evident to all the world that slavery, if not the real cause of the war, was at least the subject upon which the disunionists had been able to bring the body of the Southern people to the support of their cause. President Lincoln, himself a native of the border slave State of Kentucky, had been keenly alive to the fact that a considerable Union sentiment existed in the northern tier of slave States, and

he had labored to foster that sentiment by a policy which should make it entirely possible for patriotic pro-slavery men to sustain the government in its struggle with the rebellion. In the free States also there was a large element of patriotic men who, by force of habit and long political training and association, were not only tolerant of slavery, but also intolerant of all shades of political opinion in opposition to it. He believed, during the first year of the war, that a union of all Union men without regard to their views on slavery was of the highest importance, and that the rebellion could be weakened only by dividing the friends of that institution. The second year of the war brought very marked changes of opinion on the slavery question, and the manner in which it should be dealt with. It was found that the exactions of the border State pro-slavery men could not be conceded without alienating the great body of the Northern unionists. The President urged these slave-owners to consent to emancipation with compensation in the border States. At his suggestion the following joint resolution was adopted by Congress and approved by him on the 10th of April, 1862: —

Resolved, That the United States ought to coöperate with any State which may adopt gradual abolishment of slavery, giving to such State pecuniary aid, to be used by such State, in its discretion, to compensate for the inconveniences, public and private, produced by such change of system.

He continued these efforts up to July, 1862, but his overtures were all declined. On the 12th of that month the members of Congress from the border States had an

interview with him on the subject, but his labor with them was in vain.

As late as August, 1862, Mr. Lincoln wrote to Horace Greeley: —

> My paramount object is to save the Union, and not either to save or destroy slavery. If I could save the Union without freeing any slave, I would do it; and if I could save it by freeing all the slaves, I would do it; and if I could save it by freeing some and leaving others alone, I would also do that. . . . I have here stated my purpose according to my view of official duty, and I intend no modification of my oft-expressed personal wish that all men everywhere could be free.

There was by this time but little division among the Union men at the North. The great body of them believed the destruction of slavery to be a necessary measure for the successful prosecution of the war, and their judgment in this regard was no doubt arrived at all the easier from the strong feeling of resentment against the institution in behalf of which the rebellion was being waged.

Congress had moved slowly in its anti-slavery legislation, but it had moved. In August, 1861, it passed a law giving freedom to all slaves who had been employed by their masters in aid of military purposes. In March, 1862, it enacted an article of war dismissing from the service military officers who should surrender fugitive slaves escaping into Federal camps within the enemy's lines. In April, 1862, it abolished slavery in the District of Columbia. In June, 1862, it prohibited slavery in all the Territories, and in July, 1862, it authorized the organization of negro troops. The Confiscation Act of

July, 1862, freed all slaves of rebels who might come into the Federal lines or be captured from their masters.

The disastrous peninsular campaign resulted in intensifying anti-slavery sentiment in the North. As the Union cause waned in the border slave States, the cause of emancipation gathered momentum in the free States. On the 22d of July the President read at a meeting of his Cabinet the draft of a preliminary emancipation proclamation. In this document he proposed merely to give notice that unless the rebels should lay down their arms and submit to the national authority before the 1st of January following, he would on that day issue a proclamation emancipating the slaves within the enemy's lines. The following is an exact copy of rough minutes of the proceeding on that occasion, in the handwriting of Mr. Stanton: —

Tuesday, July 22.

The President proposes to issue an order declaring that, all slaves in States in rebellion on the . . . day of . . .

The Attorney-General and Stanton are for its immediate promulgation.

Seward against it; argues strongly in favor of cotton and foreign governments.

Chase silent.

Welles . . .

Seward argues . . . That foreign nations will intervene to prevent the abolition of slavery for sake of cotton. Argues in a long speech against its immediate promulgation. Wants to wait for troops. Wants Halleck here. Wants drum and fife and public spirit. We break up our relations with foreign nations and the production of cotton for sixty years.

Chase . . . Thinks it a measure of great danger, and would lead to universal emancipation. . . . The measure goes beyond anything I (Chase) have recommended.

Executive Mansion,

Washington, ..., 186 .

Seward argues —
That foreign nations will intervene
to prevent the abolition of Slavery
for sake of Cotton —
argues in a long speech against
its immediate promulgation —
Wants to wait for troops

Wants Hallock here
Wants drum and fife and public
spirit.
We break up our relations with
foreign nations and the production
of cotton for sixty years.

Chase.
Thinks it a measure of great
danger — and would lead to universal
emancipation.
The measures goes beyond any thing I have recommended.

Mr. Lincoln decided to postpone the proclamation; he preferred to issue it after a military success rather than after a series of military disasters. It was published on the 22d day of September, — three days after the battle of Antietam.

This of course introduced the slavery issue directly into the political campaign. Although emancipation was not to be proclaimed if the rebels should lay down their arms, it was not believed in any quarter that the rebels would submit to the federal authority. A vote for the Union Republican party would, therefore, be a vote for emancipation. An appeal was made to the laboring people to vote against emancipation, because it would bring the emancipated slaves to the North to compete with white labor. Like all the war measures which had preceded it, it encountered the opposition of the anti-war orators and writers, who professed to see in it a dangerous assault upon the Constitution. They could not bear to see the rebellion hindered from destroying both the Union and the Constitution, because all forms of opposition to the rebellion seemed to them to be forbidden by the Constitution.

As shown in the last chapter, General McClellan, in an order referring to the proclamation, delivered a homily to the army as to the "remedy for political errors, if any are committed." In conversations also he threw the weight of his influence against the proclamation. In short, McClellanism was a demoralizing political force throughout the entire political campaign of 1862, and immediately afterwards made its alliance with the other elements of opposition to the administration.

The elections resulted in the triumph of the anti-war party in New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, and Wisconsin; the Union party prevailed, however, by securing a reduced majority in the House of Representatives. There were genuine unionists who were not Republicans, and there were professed unionists who always voted on the other side. To distinguish between these two classes the term "Unconditional Unionists" came into use.

The strength of the Unconditional Unionists elected as Representatives in Congress was 102; that of all shades of the opposition was 86,—a clear majority of only 16.[1]

At no period during the war was the Union cause in such imminent peril as during the political campaign of 1862. Had the election been for a President, the result would have given but 82 electors to the Union party, and 133 to the opposition. The outburst of patriotic enthusiasm which followed Mr. Lincoln's first call for troops in 1861, and which a friendly French writer[2] wrote of as "the uprising of a great people," had been dulled by the plots and counterplots of political and military factionists, who thought their own personal ambitions and interests could best be promoted by the

[1] This same House of Representatives, however, on the 31st of January, 1865, gave 119 votes in favor of the resolution to abolish slavery by a constitutional amendment, the negative vote being 56. Eight of the opposition did not vote. Had they voted, the vote would have stood 119 to 64, and the amendment would have been defeated for the want of a two thirds' vote. Such had been the progress of public sentiment that seventeen members elected in opposition to the administration in 1862 acted with the Republicans on this important occasion in 1865, while eight of the opposition abstained from voting. Five were absent.

[2] Count Emile Gasparin.

failure of the Union armies. Mingling with these were rebel emissaries operating under the names of conservatives and Democrats. A single case serves as an illustration. Clement L. Vallandigham, of Ohio, a distinguished citizen and an ex-member of Congress, was arrested in May, 1863, upon a charge of "publicly expressing sympathy for those in arms against the government of the United States, and declaring disloyal sentiments and opinions with the object and purpose of weakening the powers of the government in its efforts to suppress an unlawful rebellion." He was found guilty by a military tribunal, and sentenced to close confinement in some fortress during the continuance of the war. President Lincoln caused him to be sent South into the enemy's lines with an order that, in case of his return, he should serve out the above sentence. In reply to a remonstrance against these proceedings Mr. Lincoln said: —

> Mr. Vallandigham's views are hostile to the war on the part of the Union, and his arrest was made because he was laboring with some effect to prevent the raising of troops, to encourage desertions from the army, and to leave the rebellion without any adequate military force to suppress it. . . . He was warring upon the military, and this gave the military constitutional jurisdiction to lay hands upon him.

Vallandigham ran the blockade and made his way to Windsor in Canada, from whence he conducted a political campaign for the governorship of Ohio, for which office he was nominated by the Democratic convention of that State on the 11th of June. He was defeated at the polls by a majority of 101,000.

A law of Ohio, as of some other States, allowed volunteer troops from the State to cast their votes wherever they might be located in the field, and send them home to be counted. Notwithstanding the conduct of Vallandigham, and the disabilities under which he labored, 2391 Ohio volunteers in the field were induced to cast their votes for him. The soldier votes cast for his opponent were 41,453.

But nowhere were the purposes of the Northern sympathizers with the rebellion more completely exposed than in a letter from their friend, Lord Lyons, then the British minister at Washington, to Earl Russell, the British Premier, dated at Washington, November 17, 1862. This missive was on the subject of mediation, and the writer was informing his government as nearly as possible of the relative strength of the United States government and its domestic enemies. The reader need not be reminded of the eagerness with which the British ministry was at that time watching for a favorable opportunity for intervention in behalf of the Southern Confederacy.

Lord Lyons starts out by observing that "the success of the Democratic, or (as it now styles itself) the conservative party, has been so great as to manifest a change in public feeling, among the most rapid and the most complete that has ever been witnessed, even in this country."

He continues: —

On my arrival at New York on the 8th instant, I found the conservative leaders exulting in the crowning success achieved by the party in that State.

Among the results which leaders expected from their victory within the State, "they seemed," he said, "to be persuaded that the result of the elections would be accepted by the President as a declaration of the will of the people; that he should increase the moderate and conservative element in his Cabinet; that he would seek to terminate the war, not to push it to extremity; that he would endeavor to effect a reconciliation with the people of the South, and renounce the idea of subjugating or exterminating them."

His Lordship thus records the disastrous ending of this dream. He says: —

On the following morning, however, intelligence arrived from Washington which dashed the rising hopes of the conservatives. It was announced that General McClellan had been dismissed from the command of the Army of the Potomac, and ordered to repair to his home; that he had in fact been removed altogether from active service. The general had been regarded as the representative of conservative principles in the army. Support of him had been made one of the articles of the conservative electoral programme. His dismissal was taken as a sign that the President had thrown himself entirely into the arms of the extreme radical party, and that the attempt to carry out the policy of that party would be persisted in. The irritation of the conservatives at New York was certainly very great; it seemed, however, to be not unmixed with consternation and despondency.

Here is the testimony of a friendly witness that General McClellan represented "the conservative principles in the army," such as would oppose pushing the war to extremity, and would place men like Vallandigham and Seymour at the head of state administrations.

Lord Lyons continued: —

Several of the leaders of the Democratic party sought interviews with me, both before and after the arrival of the intelligence of General McClellan's dismissal. The subject uppermost in their minds while they were speaking to me was naturally that of foreign mediation between the North and South.

They were "afraid it would come too soon," and "afford the radical party a means of reviving the violent war spirit, and of thus defeating the peaceful plans of the conservatives." They thought it had better be "deferred until the control of the executive government should be in the hands of the conservative party," — that is to say, until Governor Seymour should be inaugurated as governor in New York. The British diplomat gave no opinion, but listened attentively. He tells us that he gathered from the declared plans and hopes of the conservative party what he thought to be a desire to put an end to the war even at the risk of losing the Southern States altogether, but it was plain that it was not thought prudent to avow this desire. Some hints, he said, of this, "dropped before the election, were so ill received that a strong declaration in the contrary sense was deemed necessary by the Democratic leaders."

He continues: —

At the present moment, therefore, the chiefs of the conservative party call loudly for a more vigorous prosecution of the war, and reproach the government with slackness as well as with want of success in its military measures.

He stated the conservative programme to be an armistice followed by a convention to amend the Constitution

in a manner pleasing to the South in order to restore peace and harmony between the sections. He expressed the opinion that the more sagacious members of the party were well aware that Southern independence would follow an armistice, and that they preferred this to prosecuting "a cruel and hopeless war." These patriotic "conservatives" impressed Lord Lyons with the idea that he might injure the rebel cause by offering foreign mediation "at an unpropitious moment," because "it might increase the virulence with which the war is prosecuted." With their own party in power, they told him that they would desire that the offer of mediation should come from the great powers of Europe jointly, and in particular that as little prominence as possible should be given to Great Britain.

Upon the whole Lord Lyons advised his government against an offer of mediation. He thought it might "embarrass the peace party, and even oblige them, in order to maintain their popularity, to make some declaration against it, and this might make it difficult for them to accept a similar offer at a more propitious time."

His Lordship was evidently well informed as to the inflexible purpose of the unionists to preserve the government. He seemed to be under the impression that the House of Representatives just elected, and which would come in on the 4th of the following March, would be controlled by the Democratic or conservative party. But the election returns were not then all in. The letter is a most instructive one, as showing the length to which the anti-war party leaders were willing to go.[1]

[1] McPherson's *History of the Rebellion*, page 357.

CHAPTER LXXII

Emancipation Proclamation. — Mr. Stanton on its Advantages.

On the 1st of January, 1863, Mr. Lincoln executed the purpose announced by him on the 22d of September preceding, by the issuance of his proclamation of emancipation. By it all the slaves within the rebel lines as defined by the proclamation were declared to be free. The military and naval authorities were required to recognize and maintain their freedom. The emancipated people were enjoined to abstain from violence except in self-defense, and recommended to labor faithfully for reasonable wages. The proclamation declared that "such persons of suitable condition will be received into the armed service of the United States to garrison forts, positions, stations, and other purposes, and to man vessels of all sorts in said service." The proclamation was based upon military necessity.

Up to this time the slaves of the rebels had been to them an element of strength. They cultivated the fields as they had always done, faithfully guarded the homes of their owners who were absent in the military service of the Confederacy, and served as teamsters and laborers in that service, their only pay being their coarse rations and clothing. The people of the South, who looked with brave composure on the slain of their youth and manhood, and who accepted the devastation

of their property as the natural result of war, could not bring themselves to contemplate such a thing as breaking the bonds of the slaves. The loyal people of the North were greatly divided upon the subject. While a large element had from the outset favored the immediate crippling of this strong arm of the South, another large element labored under the strange hallucination that while it was the duty of the government to utterly destroy the rebel cause by destroying its army, it would be wrong to free their slaves. Mr. Stanton was one of those who found no guarantees in the national Constitution which could protect a public enemy from a blow that would weaken his resources and strengthen the government for the preservation of the Union. In his annual report of 1862 he gave the following powerful array of the advantages which emancipation offered the Union cause: —

It is seen that force has been placed by the United States at the command of the government to maintain its authority more mighty in all the elements of warfare than was ever before arrayed under one banner. How shall that force be employed? To smite the enemy on every hand, to attack his armies and strongholds, to occupy his ports, clear the great rivers of the West from his obstructions, and pause not until he is subdued, is our great duty. Above all it is our legitimate duty to disdain no legitimate aid that may save the lives of our gallant soldiers, diminish their labors, provide for their wants, and lessen the burdens of our people. No aphorism is more universally received than that "the sole object of a just war is to make the enemy feel the evils of his injustice, and by his sufferings amend his ways; he must, therefore, be attacked in the most accessible quarter." The

power of the rebels rests upon their peculiar system of labor, which keeps laborers on their plantations to support owners who are devoting their time and strength to destroy our armies and destroy our government. Whenever that system is in hostility to the government, it is, in my opinion, the duty of those conducting the war to strike down the system and turn against the rebels the productive power that supports the insurrection. Rightly organized in the recovered territory, the laborers of the rebel States will not only aid in holding fortified positions, but their labor will, as in India, free the white soldiers from the most unwholesome exposure of the South. They will cultivate the corn and forage which will feed our cavalry and artillery horses, and save the country a portion of the enormous burden now attending their purchase and transportation from the North. This cultivation would have been of greater advantage to us on the southeastern coast than even that of the great staple of the Sea Islands. Probably the people who remained upon these islands, within protection of our armies, could, under wise control, have supplied all the forage needed this year by the forces in the Department of the South. The full ration for a horse weighs twenty-six pounds, that of a soldier three pounds. An army well organized and equipped for active operations, with a due proportion of cavalry, artillery, and baggage trains, will have not less than one horse or mule to every four soldiers, so that the weight of food for the animals is more than double that of the rations for the men. How important an aid, how great an economy, in a long contest, therefore, there would be in raising by this cheap labor the greater part of the forage alone for the Southern department, — thus, for a great portion of our wants, transferring the base of supplies now at New York to Hilton Head or New Orleans.

This department has found it difficult to transfer this labor from one part of the seat of war to another. Local and

family ties seem to be very strong with these people, and, with all their faith in the power and good will of our military commanders, it was found difficult to get volunteer laborers to leave Port Royal for other depots.

A population of four millions, true to the interests of the Union, with a slight assistance from the army, will, under proper regulation and government, be of the greatest assistance in holding the territory once recovered. The principal staples of the South are the products exclusively of their labor. If protected upon the lands they have heretofore cultivated, with some organization, and with support from loyal detachments of colored troops, they would not only produce much of what is needed to feed our armies and their trains, but that would forever cut off from the rebellion the resources of a country thus occupied.

The rebel armies move with ease through portions of the border States, living upon the country in which our commanders find no supplies. The people bring forth their hoards and offer them to the rebels for sale or gift. Protect the laboring population, who are the majority in the greater part of the South, in possession of the land and its products, and this great advantage will, for whatever portion of the country we occupy, be transferred to us. As soon as the coast is thoroughly occupied and the people organized, trade will revive. Cotton, rice, sugar, and other products will be exchanged by the producer for what he needs. Their wants will be supplied direct from the Northern factories, and the cultivation of the great staples will pay for what they use. A perfectly free trade may thus again grow up between the North and South, and, with greater or less rapidity, it will spread over the whole country as our forces succeed in meeting and dispersing the rebel armies.

The greater part of the whole country which formerly produced the sea-island cotton is now thoroughly restored to the Union. The laborers are there — the soil and climate. It

needs only assurances of protection to revive the cultivation of the staple, as well as to produce vast quantities of corn and forage for our troops. Since this war must be conducted by marches, and battles, and sieges, why neglect the best means to make them successful and their results permanent? It is worthy of notice that thus far the portions of territory which, once recovered, we have most firmly held, are precisely those in which the greatest proportion of colored men are found. By their assistance our armies will be able permanently to operate in and occupy the country; and in labor for the army in raising its and their own supplies, full occupation can be given them, and with this there will be neither occasion nor temptation to them to emigrate to a northern and less congenial climate. Judging by experience, no colored man will leave his home in the South if protected in that home. All possibility of competition from negro labor in the North is avoided by giving colored men protection and employment upon the soil which they have thus far cultivated, and the right to which has been vacated by the original proprietors, deeply involved in the crimes of treason and rebellion. No great territory has been permanently reduced without depriving the leaders of its people of their lands and property. It is these that give power and influence. Few men have the commanding genius and talent to exercise dangerous influence over their fellow-men without the adventitious aid of money and of property. By striking down this system of compulsory labor, which enables the leaders of the rebellion to control the resources of the people, the rebellion would die of itself.

Under no circumstances has any disposition to servile insurrection been exhibited by the Southern colored population in any Southern States, while a strong loyalty to the federal government has been displayed on every occasion and against every discouragement.

CHAPTER LXXIII

Military Movements in the West. — Perryville, Murfreesboro. — The Fall of Vicksburg.

WHILE Lee was advancing into Maryland early in September, after the defeat of our armies in northern Virginia under Pope, General Bragg led a Confederate movement into Kentucky. He was followed by General Buell, but eluded him, and succeeded in occupying Frankfort, the capital of the State, on the 4th of October, long enough to go partially through the motions of inaugurating a Confederate governor of the pretended Confederate State of Kentucky. This comedy was interrupted by the approach of Buell. On the 8th of October the hard-fought battle of Perryville resulted in driving Bragg and his army from the State. Buell's failure to meet the President's expectation by occupying east Tennessee resulted in his removal from the command on the 24th of October. Rosecrans, who succeeded him, established himself at Nashville early in November.

A second northward movement of Bragg was met by Rosecrans. The battle of Murfreesboro or Stone River, one of the most deadly battles of the war, resulted in Bragg's defeat and the abandonment of the Confederate hope of crossing the Ohio River. The fighting commenced on the 31st of December, continuing until

night, paused during the whole of New Year's Day, and was resumed and finished on the 2d of January, 1863. The rebel losses were 14,700; the Federal losses 13,500, of which there were 1500 killed, and 7000 wounded. Each army lost about one fourth of its number. Secretary Stanton, in his annual report of 1862, gave the following summary of what had been accomplished by the Union armies up to that time: —

> From a survey of the whole field of operations, it is apparent that, whatever disasters our arms may have suffered at particular points, a great advance has nevertheless been made since the commencement of the war. When it began, the enemy were in possession of Norfolk and every part of the Southern coast. They held the Mississippi from Cairo to New Orleans. Now, the blockaded ports of Charleston and Mobile alone remain to them on the seaboard, and New Orleans and Memphis have been wrested from them. Their possession of Vicksburg obstructs the Mississippi, but it is to them of no commercial use. Their strongholds on the Tennessee and Cumberland rivers have been captured. General Andrew Johnson, as military governor of Tennessee, holds Nashville. The enemy have been driven from Kentucky, west Tennessee, Missouri, part of Arkansas, are fleeing before Grant in Mississippi, and all their hopes in Maryland are cut off. In commercial, political, and strategical points of view, more success has attended the Union cause than was ever witnessed upon so large a theatre in the same brief period against so formidable an enemy.

The military operations in the West during the first half of 1863 were directed by General Grant for the control of the Mississippi River by a campaign against Vicksburg. The object was achieved by a long siege,

a succession of brilliant movements, and the capture of the city and the army defending it on the 4th of July of that year. It is not within the scope of this work to follow these vast operations.

General Grant's official summary of the operations against Vicksburg is as follows: —

The result of this campaign has been the defeat of the enemy in five battles outside of Vicksburg; the occupation of Jackson, the capital of the State of Mississippi, and the capture of Vicksburg and its garrison and munitions of war; a loss to the enemy of thirty-seven thousand (37,000) prisoners, among whom were fifteen general officers; at least ten thousand killed and wounded, and among the killed, Generals Tracy, Tilghman, and Green; and hundreds, and perhaps thousands, of stragglers, who can never be collected and reorganized. Arms and munitions of war for an army of sixty thousand men have fallen into our hands, besides a large amount of other public property, consisting of railroads, locomotives, cars, steamboats, cotton, etc., and much destroyed to prevent our capturing it.

He reported the Federal losses at 243 killed, 7095 wounded, and 507 missing, and said: —

Of the wounded many were but slightly wounded and continue on duty. Many more required but a few days or weeks for their recovery. Not more than half of the wounded were permanently disabled.

General Halleck, in his annual report, said of General Grant's operations: —

When we consider the character of the country in which this army operated, the formidable obstacles to be overcome, the number of forces and the strength of the enemy's works, we cannot fail to admire the courage and endurance of the

troops, and the skill and daring of their commander. No more brilliant exploit can be found in military history.

The fall of Vicksburg was followed by the fall of Port Hudson, which had been invested by General Banks in May.

CHAPTER LXXIV

Military Movements in the East. — Burnside and Hooker. — Fredericksburg and Chancellorsville. — Lee's Invasion of Maryland and Pennsylvania. — Conference between President Lincoln and Secretary Stanton on the Eve of the Battle of Gettysburg results in relieving Hooker, and the Appointment of Meade to Command. — The Great Victory. — Meade's Failure to pursue Lee. — Mr. Lincoln at Gettysburg. — His Speech at the Dedication of the National Cemetery.

General A. E. Burnside had, in November, 1862, succeeded McClellan in the command of the Army of the Potomac. On the 13th of December was fought the battle of Fredericksburg, resulting in disaster to the Federal arms, the Union losses being more than 13,000, and those of the Confederates over 5000.

On the 26th of January, 1863, General Burnside was superseded by General Hooker. The latter succeeded no better than his predecessor. The battle of Chancellorsville, after three days' fighting, — May 2, 3, and 4, — resulted in the retreat of the Army of the Potomac to the north bank of the Rappahannock on the 6th. Mr. Stanton, on the 8th of May, sent the following dispatch to the governors of the Northern States for the obvious purpose of reassuring the Northern people : —

The President and general-in-chief have just returned from the Army of the Potomac. The principal operations of General Hooker failed, but there has been no serious disaster to

the organization and efficiency of the troops. It is now occupying its former position on the Rappahannock, having recrossed the river without any loss in the movement. Not more than one third of General Hooker's force was engaged. General Stoneman's operations have been a brilliant success. Part of his force advanced to within two miles of Richmond, and the enemy's communications have been cut in every direction. The Army of the Potomac will speedily resume offensive operations.

The Army of the Potomac remained inactive, after the battle of Chancellorsville in May, for more than a month. Its ranks had been depleted by losses in the latter battle, and by the expiration of the terms of service of about 20,000 of its men. Early in June a reconnoissance in force made it evident that Lee was preparing for a movement to the northward. A large body of the enemy had moved into the Shenandoah Valley. Winchester and Martinsburg, then occupied by our forces, were captured, the former on the 13th, and the latter on the 14th of June. On the 15th a cavalry force of the rebels, estimated at 2000, crossed the Potomac and advanced to Chambersburg in Pennsylvania. On the same day the President issued a proclamation, announcing that inroads into the States of Maryland, West Virginia, Pennsylvania, and Ohio were threatened, and that an immediate additional force was necessary. He therefore called for 100,000 militia from these four States: 10,000 from Maryland, 50,000 from Pennsylvania, 30,000 from Ohio, and 10,000 from West Virginia.

On the same day he telegraphed to Governor Sey-

mour calling for 20,000 militia. The governor's promptness in responding to this call was acknowledged by the Secretary.

A call upon the State of New Jersey was responded to with equal promptness. Within five days 20,000 citizens of Pennsylvania had taken the field.

Meanwhile General Hooker occupied the position which he deemed necessary for the protection of Washington. On the 24th of June General Lee crossed the Potomac into Maryland with the main body of his army, and advanced rapidly into Pennsylvania. Carlyle, Kingston, Gettysburg, York, and Chambersburg were speedily occupied by his forces. The Confederates moved on the west side of the Blue Ridge, while Hooker moved the Army of the Potomac on the east side, thus covering Washington. While the last of the Confederates were crossing the river at Williamsport and Shepherdstown on the 26th, General Hooker was crossing it at Edwards's Ferry.

On the 27th the startling announcement was made that Hooker had resigned, and that General Meade had been placed in command. There was no criticism upon General Hooker's movements or the disposition of his troops. It was given out that he had demanded to be reinforced by the troops at Harper's Ferry; that Halleck, then the general-in-chief, had refused them; that Hooker had at once tendered his resignation of the command, and it had been promptly accepted. Beneath the single incident of the refusal of Hooker's request there were stronger reasons. An authentic account of a conference between the President and

Secretary Stanton on the subject of superseding General Hooker was furnished to the author some years ago by a well-known and highly respected citizen and banker of Pittsburg.[1] It indicates the reason for so readily accepting Hooker's resignation. The narrator says: —

THE EVE OF GETTYSBURG.

I learned some facts after this battle from James A. Hutchison, Mr. Stanton's brother-in-law, who related them to me, having received the information from the Secretary of War himself. I made no memorandum then, which I regret that I did not do. I will try and reproduce the substance of the conversation as near as I can in Mr. Hutchison's words, from memory, which you know from the lapse of time is rather fallacious. Gettysburg battle was the great event that broke the back of the rebellion. I had a dear son in it, who was an officer of the 6th corps, and did his duty. Every circumstance relating to it made an impression at the time upon my mind.

The eve of the battle of Gettysburg was in one of the darkest periods in our country's history. The loss of the battle of Chancellorsville had raised to exultation the spirits of the South, and depressed in the same measure the Northern heart. General Lee and his legions crossed the Potomac, marched over Maryland, and threatened Pennsylvania. The Confederates were on the advance, and the Union army corps were on their march from the Potomac, keeping Washington on their right for its protection.

It was night in Washington. The President wore a gloomy face as he entered the War Department by the urgent request of Secretary Stanton. Neither spoke for a while. Mr. Lincoln at last said: "Stanton, you want to

[1] John Harper.

speak to me; you have something to communicate; let us calmly counsel with each other: I am ready to listen." The Secretary replied: "Yes, I do want to say something to you. I want to tell you the trouble that oppresses me at this time; I 'll not mince words, for I feel you want to know the worst." "I do," said Mr. Lincoln; "speak out, then, I 'll be listener." Mr. Stanton in brief language told him that he dreaded the issue of the coming battle, with Lee's conscious ability and the animating spirit of his army, on the one side, and Hooker, a beaten general, commanding men who still remembered their defeat in Virginia, on the other side. "In short," said Mr. Stanton, "I have not confidence in General Hooker, though his personal courage I do not question." "I don't disagree with you," said the President, "but you recollect the old saying, 'While crossing a stream it is too late to swap horses.' Stanton, have you any other general to suggest?" He replied: "I have thought of General Sedgwick, but you know he will not accept. I have thought of others, and arrived at the same conclusion. The best of them are not without detractors. There is one that I would suggest, General Meade, with whose record and ability I could find no fault; and as a Pennsylvanian he has patriotism enough to draw out all the latent energies of his nature." "And will fight well on his own dunghill," interposed the President. "Yes, yes, he would never disgrace the State!" "Stanton, there is no time to be lost. You must have conceived a plan. If you can satisfy my judgment that this expedient will prove a master-stroke, and lead to success, I will coöperate with you, and give it my approval." Secretary Stanton then detailed his plans. The orders and papers, all written out, were taken up seriatim and discussed, and the papers executed. A locomotive engine was in readiness, fired up; orders were placed in the hands of a tried officer of the regular army, who had precise instructions how to proceed. The first was to go forward to the headquarters of General Meade, who

was ordered by a paper delivered to him to take command of the army; the second was to deliver to General Hooker orders which informed him that he was superseded by General Meade; and all conditions were fully arranged to give simultaneous intelligence to the corps and division commanders in the field, of the President's order for the change, so that immediate intelligence to all subordinate officers might be given to the soldiers under their command. These orders were announced and acquiesced in, and a new spirit wakened among the rank and file of the army.

All the world knows the story of Gettysburg. It was to the rebels the greatest disaster of the war up to that time. To the Army of the Potomac it was a compensation for all the disasters and hardships it had suffered. The exaltation of the country was at a high pitch, and higher yet rose the tide of rejoicing when, on the 7th, dispatches were received at Washington containing the news of the surrender of Vicksburg on the 4th.

It is true that General Meade was severely criticised for having permitted Lee to escape with his army. General Halleck wrote him that this had "created dissatisfaction in the mind of the President," and that this impression could only be removed by an active and energetic pursuit of the enemy.

To a friend in Pennsylvania Mr. Stanton wrote on the 22d of July, as follows: —

As long as General Meade remains in command he will receive the cordial support of the department, but since the world began no man ever lost so great an opportunity of serving his country as was lost by his neglecting to strike his adversary at Williamsport.

General Meade had allowed his antagonist to cross the Susquehanna River with his entire army unmolested, a seeming want of enterprise equaled only by that of General McClellan after the battle of Antietam. It became known almost immediately afterwards that the enemy had exhausted his ammunition, and would have been compelled to surrender if General Meade had followed up his victory.

The National Cemetery located on the battlefield of Gettysburg was dedicated on the 19th of November following the battle. Mr. Lincoln's speech on that occasion is immortal. It is printed as often as its production is deemed to be justified by the surroundings. Following this example, it is here inserted: —

ABRAHAM LINCOLN'S GETTYSBURG ADDRESS.

Fourscore and seven years ago our fathers brought forth upon this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal. Now we are engaged in a great civil war, testing whether that nation, or any nation so conceived and so dedicated, can long endure. We are met on a great battlefield of that war. We have come to dedicate a portion of that field as a final resting-place for those who here gave their lives that that nation might live. It is altogether fitting and proper that we should do this. But in a larger sense we cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here have consecrated it far above our power to add or detract. The world will little note, nor long remember, what we say here, but it can never forget what they did here. It is for us, the living, rather to be dedicated here to the unfinished work which

they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion; that we here highly resolve that these dead shall not have died in vain; that this nation, under God, shall have a new birth of freedom, and that government of the people, by the people, and for the people, shall not perish from the earth.

The following are characteristic both of Mr. Lincoln and Mr. Stanton: —

War Department, Washington City,
November 17, 1863.

Mr. President, — It is proposed by the B. and O. Road, —

1st. To leave Washington Thursday morning at six A. M., and

2d. To leave Baltimore at eight A. M., arriving at Gettysburg at twelve noon, thus giving two hours to view the grounds before the dedication ceremonies commence.

3d. To leave Gettysburg at six P. M. and arrive at Washington at midnight, thus all done in one day.

Mr. Smith says the Northern Central Road agrees to this arrangement.

Please consider it, and if any change is desired let me know so that it can be made.

Yours truly,
Edwin M. Stanton.

Mr. Lincoln's reply in his own handwriting is indorsed on the back of this letter, as follows: —

I do not like this arrangement. I do not wish to so go, that by the slightest accident we fail entirely; and, at the best,

the whole to be a mere breathless running of the gauntlet. But, any way.

A. LINCOLN.

November 17, 1863.

His objections prevailed, and the party went to Gettysburg on the 18th, returning on the following day.

CHAPTER LXXV

The New York Draft-Riots. — Unwise Provisions in Conscription Act utilized by the Anti-War Faction. — Active Measures restored Order. — Mr. Stanton's Letter against submitting the Constitutionality of the Law to the State Tribunal. — If States can obstruct Federal Laws, the Rebellion is consummated.

One of the modes most relied upon by the Northern sympathizers with the rebellion to serve that cause in 1863 was resistance to the draft. This movement was on foot while Lee was yet gayly marching into Maryland and Pennsylvania, and before his campaign had resulted in the Union victory at Gettysburg; indeed, it seemed a part of the Confederate summer campaign.

In the hope of filling the ranks of the army more rapidly than could be done by volunteering alone, Congress, on the 3d of March, 1863, had enacted an enrollment and conscription act which authorized the President, when necessary, to obtain recruits by drafting; and early in May a draft of 300,000 men was ordered.

The Northern aiders and abettors of the rebellion counted upon large reinforcements to the ranks of the anti-war party through the prejudice they would be able to arouse among the people against the draft. There were two features in the law which were well calculated to create a hostile feeling: one was the

extreme difficulty of equalizing the quotas among the several districts, and the other was the provision which allowed drafted men to pay $300 in lieu of rendering service.

The law required an enrollment of all persons subject to military service, to commence in April. To carry this act into effect, the office of provost marshal general was created, forming a bureau of the War Department. Each congressional district, territory, and the District of Columbia was made a military district, for which a provost marshal was appointed by the President and placed under the orders of the provost marshal general. In each district the provost marshal, together with a licensed physician and one other person appointed by the President, constituted the district board, with authority to divide the district into as many sub-districts as were deemed necessary, and to appoint an enrolling officer for each. The intention was to ascertain how many men were liable to military service in the United States on the 1st of July, and who they were.

The quotas under which the troops had been raised in 1861 and 1862 were based upon population. The quotas for 1863 were to be based, not upon population, but upon the number of men in the several districts liable to military service. Previous enlistments were to be credited. These previous enlistments, which had been based on an apportionment according to population, were now to be credited on a basis of the number of persons subject to military duty. It was impossible to ascertain with certainty what number of drafted men

in each district would, when added to the number of previous enlistments, constitute the equal quota of that district upon the new basis. This was because it could not be shown what proportion of the population of any given district had been subject to military service in 1861 and 1862. A district in which the female population was the largest, or in which the number of foreigners who had not yet declared their intention of becoming citizens was very large, contained a less proportion of persons subject to military service than districts of less population where these conditions were reversed. This led to serious disagreements between federal and state authorities in some districts as to the number of troops required to fill out their quotas.

More serious still was the $300 clause, by which the man who could pay that sum was thereby released from military duty, while the man unable to do so must go into the ranks. This odious provision was never approved by Secretary Stanton, but was doubtless one of those conditions in legislation by which alone the Conscription Act could secure the votes necessary for its passage. Armed with these mischievous provisions in the law, the enemies of the government succeeded in inaugurating a terrible riot in the city of New York on the 13th of July. The vast army of criminals who thrive at such times formed a part of the mob by which the city was terrorized for six days. On the 14th of July the governor declared the city to be in a state of insurrection. The Secretary of War ordered home the New York militia regiments that had been sent into Pennsylvania to aid in repelling the invasion of that

State. The city authorities passed a relief measure to pay the $300 necessary to obtain a substitute for every man of the poorer classes. The regular troops, the militia, and the police finally reduced the extreme violence of the rioters, and a sufficient military force was kept on duty to guard against a renewal of the riots. Governor Seymour stated in his annual message that the number of killed and wounded was estimated by the police to be at least 1000. The damages were estimated at two and a half millions by a committee appointed by the authorities for the purpose.

On the 17th of July, 1863, Mr. Stanton addressed the following letter to Hon. E. D. Morgan, of New York: —

From the tenor of your letter of the 15th instant, just received, I apprehend that you have been very much misinformed as to the matters therein referred to. Seymour more than two months ago was informed by me that I was very anxious to consult with him on matters relating to the draft, and requested him to afford me an opportunity for a personal conference, to which he replied, after considerable delay, that he expected to be in Washington and would confer with me. In the second place, I am informed by the provost marshal general that he notified Governor Seymour of the number of drafted men required from the districts in which the draft was to be made; and also his readiness to furnish to him for his examination at any time the data upon which the draft was made. From the commencement of his administration until the present hour, this department has treated Governor Seymour with the utmost deference and respect, and has availed itself of every opportunity to secure his coöperation. The $300 exemption clause was always, in my judgment, a highly objectionable feature of the bill, but

it was created by Congress, and no alternative is left the department but to observe the laws.

On the 17th of July Mr. Stanton addressed the following letter to Hon. David Dudley Field, of New York: —

Your telegram and letter were duly received. General Dix will be in command of the department, with General Canby, an officer of judgment, courage, and ability unsurpassed by any one in the service of the United States, as second in command. Whatever force they require to execute the law of the United States will be given them.

The riot commenced just one week after the victory at Gettysburg. Mayor Opdyke wrote to Mr. Stanton on the 18th of July: —

It is the opinion of many that the danger will be renewed in an intensified form whenever the draft is resumed. I do not share in these fears if the proper precautions are taken; though I think that, to prevent any miscarriage and to avoid all danger, you should have at least 10,000 reliable troops, with a strong force of light artillery, and that the resumption of the draft should be delayed a few days, to the end that your preparations may be perfect, and that the angry passions of the mob may have time to subside.

Secretary Stanton's old friend, James T. Brady, an eminent member of the New York bar, wrote him under date of July 18 that he thought the riot was the result of premature development of an organized scheme to resist the draft. He characterized as infamous the speech of Governor Seymour in which he addressed the mob as his "friends." He said nothing but the armed forces of the government, strong enough

to compel silent and unquestioning submission to the law, could prevent a still more extensive riot when the draft should be resumed. He feared a collision between the state and federal authorities, and to avert this he suggested that the government propose to Governor Seymour a submission of the constitutionality of the act to the Court of Appeals of the State of New York.

To this Mr. Stanton replied as follows, under date of July 23: —

I have carefully considered the views presented by your letter of the 18th instant, received yesterday.

It has always been my purpose to submit the constitutionality of the conscription law to judicial investigation whenever a case would arise in which the point could properly be presented before a competent tribunal. But it seemed to me —

1st. That until the draft was made and some individual arrested for resistance, it would be premature to present any question for judicial action, as the Executive is bound in its ministerial measures to assume the law to be constitutional.

2d. That a federal tribunal is the proper tribunal to decide the question, and made so by the Constitution. For myself I have equal confidence and respect for a state tribunal. But if submitted to them in one State it must be in all others, leading to interminable delay and a virtual suspension or repeal of the act of Congress, — for after all, the federal courts are organized for the trial of questions under acts of Congress.

In regard to addressing Governor Seymour on the question, many points requiring grave consideration arise. If the national Executive must negotiate with state executives in relation to the execution of an act of Congress, then the problem which the rebellion desired to solve is already determined. The rebellion started upon the proposition that there

is no national government, but only an agency determinable at the will of the respective States manifested by the action of the state authorities. The governor of New York stands to-day on the platform of Slidell, Davis, and Benjamin; and if he is to be the judge whether the Conscription Act is constitutional and may be enforced or resisted as he or other state authorities may decide, then the rebellion is consummated, and the national government abolished. I will, however, consider the matter further before adopting any but precautionary measures, and in the mean time would be glad to hear from you.

David Dudley Field wrote to Mr. Stanton on the 19th of July that he had no doubt himself of the constitutionality of the Conscription Act, and was confident it would be sustained by the proper tribunal. He said: —

I would recommend that the draft should be immediately put in execution, and the names drawn, and the act enforced at all hazards against violent resistance, but that no impediment should be offered, and, on the other hand, every facility to the decision of a test case before the Circuit Court of the United States here, with an appeal, of course, by either party to the Supreme Court of the United States; it being understood that such a decision should be obtained at the earliest possible period, and that in the mean time the provost marshals shall not be harassed with other writs of habeas corpus except on other questions. If you would permit me to say to Governor Seymour that you are willing to adopt this course, I believe the opposition to the law would be greatly diminished. He thinks it would cease altogether.

General Dix had assumed command of the Department of the East on the 18th of July, relieving General Wool. He wrote to Mr. Stanton on the 20th: "I am

in constant communication with General Canby, whose coolness and sound judgment are admirable. The command in this city could not be in better hands." He had seen Governor Seymour, and stated that, without apprising him that he was authorized to declare martial law, he referred to it as an alternative to be adopted when it should become manifest that the draft could not be otherwise enforced.

Preston King wrote on the 29th to Mr. Stanton: —

I think there cannot be a doubt that whatever may happen the draft already begun should be carried out fully and with entire impartiality according to law.

The government might as well abdicate as to suspend the draft or give its consent to the non-execution of the law because it is resisted by violence or threats of violence.

To this Mr. Stanton replied as follows, August 1: —

You need have no apprehension that the draft in New York will be suspended. Delay has occurred in making the necessary preparations and arranging a military force to meet the contingencies that may arise. That is now nearly accomplished; and the rebellion is likely to have the same bad luck in New York that it has had at Vicksburg, Port Hudson, and other places.

On the 15th of August Mr. Stanton wrote to General Dix as follows: —

Inclosed herewith I send you by the hand of Colonel Fry —

1. A proclamation by the President, to be used in case of any necessity arising for the employment of military force to overcome unlawful combinations against the authority of the general government in the executing the act of Congress to

enroll and call out the national force. Of this necessity you are authorized to be the judge, and if it arises you will fill up the blank and promulgate the proclamation. The original, with the great seal, remains with the archives of the government in the State Department.

2. A call upon the governor of New York by the President, notifying him that the militia are called forth, and requesting him to issue an order to Major-General Sanford (Charles W.).

The use of this paper is left to your discretion. It has occurred to the President that it may be proper and serviceable to put upon Governor Seymour a call for assistance, and let him render it or shoulder the responsibility of refusing. It is not supposed that this call is essential to the authority of the President, or that the assent or obedience of Governor Seymour affects the right or power of the President to issue an order to General Sanford directly. But it may be an expedient courtesy of which you are to judge, and which you should have the means of employing if you think proper.

A blank is left for you to fill up with the State of New York or any specific districts, as the case may require, and also a blank for a date to be filled.

3. An order by the President upon General Sanford to report to you.

The date and also the blank for state or specific districts are to be filled up.

You will be apprised by the provost marshal general what reinforcements will be sent forward. He will confer with you. Any further aid or direction you may require will, on notice, be given, if in the power of the government.

In your energy, courage, and discretion the utmost confidence is placed by the government.

There were no further serious disturbances.

This organized resistance to the methods of the government for the reinforcement of the army was

doubtless planned for a very different situation than the one during which it was launched. It was probably the expectation of its authors that the invasion of Maryland and Pennsylvania by Lee would be successful, and that in the panic which would follow, the government would be paralyzed and the rebellion transferred to the Middle and Northwestern States. The ferocious spirit which characterized the rioters, even under the adverse circumstances of the great disasters to the rebel armies a few days before the outbreak, may well be regarded as an indication of the extent to which it might have been carried had the military results at Gettysburg been reversed.

CHAPTER LXXVI

Suspension of the Writ of Habeas Corpus. — Mr. Stanton's Letter and the Proclamation of the President. — The Reason for the Constitutional Provision on the Subject.

One of the methods used by the enemies of the government to sow dissensions among its supporters was the loud outcry against the suspension of the privilege of the writ of habeas corpus. Never had the sacredness of the great writ been so emphasized as when it was thus invoked for the benefit of persons resisting the draft, encouraging desertions, and discouraging enlistments.

Although the Constitution provides for the suspension of the privilege of the writ of habeas corpus "when in cases of rebellion or invasion the public safety may require it," the enemies of the government professed to be unable, from the commencement of the rebellion, to see that its suspension under any circumstances could be constitutional. Whether this was because they were unable to see in the rebellion a "case of rebellion," or were unable to see any menace to "the public safety" in the network of spies and active traitors which existed in the North, as illustrated by the New York riots, certain it is that the suspension of the writ by the President was held by them to be one of their most serious grievances. No provision is made in

the Constitution as to exercising the power of suspension. Congress had enacted no statute on the subject.

The President first suspended the writ within the military line between Philadelphia and Washington in April, 1861. In July he extended the order to the line between New York and Washington. In September, 1862, the writ was suspended as to all persons imprisoned by military authority. On the 3d of March, 1863, Congress settled the dispute as to where the power was lodged, by an act authorizing the President during the rebellion to suspend the writ whenever in his judgment the public safety might require it. This united the power of the President and Congress on the subject. During the summer of 1863 resistance to the draft and general obstruction to volunteering was encouraged by the decisions of certain state courts, the judges of which felt called upon to determine the constitutionality of the war measures of the general government. This method of opposition went to such a dangerous extent that on September 13, 1863, Secretary Stanton addressed the President the following letter: —

I have the honor to submit herewith the letter of the provost marshal general of this date, asking instructions in regard to the proceedings by the state tribunals, in the State of Pennsylvania, in the discharge of deserters and the exercise of jurisdiction over persons held in military custody. There appears to be an evident design on the part of some individuals holding judicial stations in different States, including Pennsylvania, to exercise their powers in hostility to the general government in its efforts to repress the rebellion, and especially with the view to prevent the operation of the draft

and encouraging desertion. The provost marshal general inquires whether the interference of state courts with persons held in military custody shall be acquiesced in or resisted by force. The gravity of this question imposes upon me the duty of submitting the matter for your consideration for such instructions as you may be pleased to give in the premises.

The response to this letter was the issuance by the President, two days later, of his proclamation suspending the writ of habeas corpus throughout the United States, "where, by the authority of the President of the United States, military, naval, and civil officers of the United States, or any of them, hold persons under their command or in their custody, either as prisoners of war, spies, or aiders or abettors of the enemy, or officers, soldiers, or seamen enrolled, or drafted, or mustered, or enlisted in or belonging to the land or naval forces of the United States, or as deserters therefrom, or otherwise amenable to the military law or the Rules and Articles of War, or the rules or regulations prescribed for the military or naval service by authority of the President of the United States, or for resisting a draft, or for any other offense against the military or naval service."

The exercise of the constitutional power to suspend the writ of habeas corpus seriously interrupted the Northern aiders and abettors of the rebellion, and increased the difficulties in the way of their giving aid and comfort to the enemy. The power was evidently conferred by the Constitution expressly to enable the government to protect itself against interference with the war powers by the courts, in time of war, either of

invasion or rebellion. It enabled the Executive to arrest and imprison dangerous enemies of the government, and to deny to them the speedy trial to which in time of peace they would be entitled, but which in time of war might be impracticable, or might be so conducted as to increase the public danger.

It was but natural that the exercise of this great power should be jealously watched, and nearly always condemned by some; and it is well that the restraining force of public opinion and the reverence for personal liberty should always make themselves felt against its unnecessary exercise. The Constitution and the law enacted under it made the President the sole judge of the extent to which courts, both state and federal, should be closed against the appeals of men imprisoned for acts against the government. "Arbitrary arrests" were complained of not only by the enemy, but by many friends of the government. But since the excitement of those times has passed away, no traces are left which show that other than patriotic purposes animated the President or his Secretary of War in causing arrests, while, on the contrary, there is abundant evidence of an endeavor by them to limit the exercise of power as much as seemed consistent with the public safety.

Mr. Stanton's letter of September 13, followed by the President's proclamation of the 15th, above quoted, were both doubtless the result of serious consideration by their respective authors, and show that before the letter was written both had arrived at the conclusion that the proclamation had to be issued. It was one of the most important executive acts of the war.

CHAPTER LXXVII

The Elections of 1863. — Union Successes. — Attitude of the Opposition considered. — Many of its Leaders Conspirators. — Its Majority attached to the Union.

THE splendid achievements of the armies, the preservation of law and order in New York, and the advanced position of the administration on the slavery question, so strengthened the Union cause throughout the country that in the election of 1863 in New York the Union candidates had a majority of over 29,000, as against an adverse majority the previous year of nearly 11,000. In Pennsylvania the Union majority was over 15,000, in place of a majority for the opposition in 1862 of more than 3500. In 1862 the opposition carried Ohio by a majority of more than 5000; in 1863 John Brough, the Union candidate for governor in that State, defeated Vallandigham by 101,000 votes. In Illinois the Union majority was over 29,000; the opposition had carried the State the year previous by more than 16,000.

The enormous proportion, in numbers, of the minority party to the whole body of voters in the North during the war must not be understood as representing intelligent and intentional opposition to the government. It represented many elements. Strongest of these was the strong attachment to the Democratic

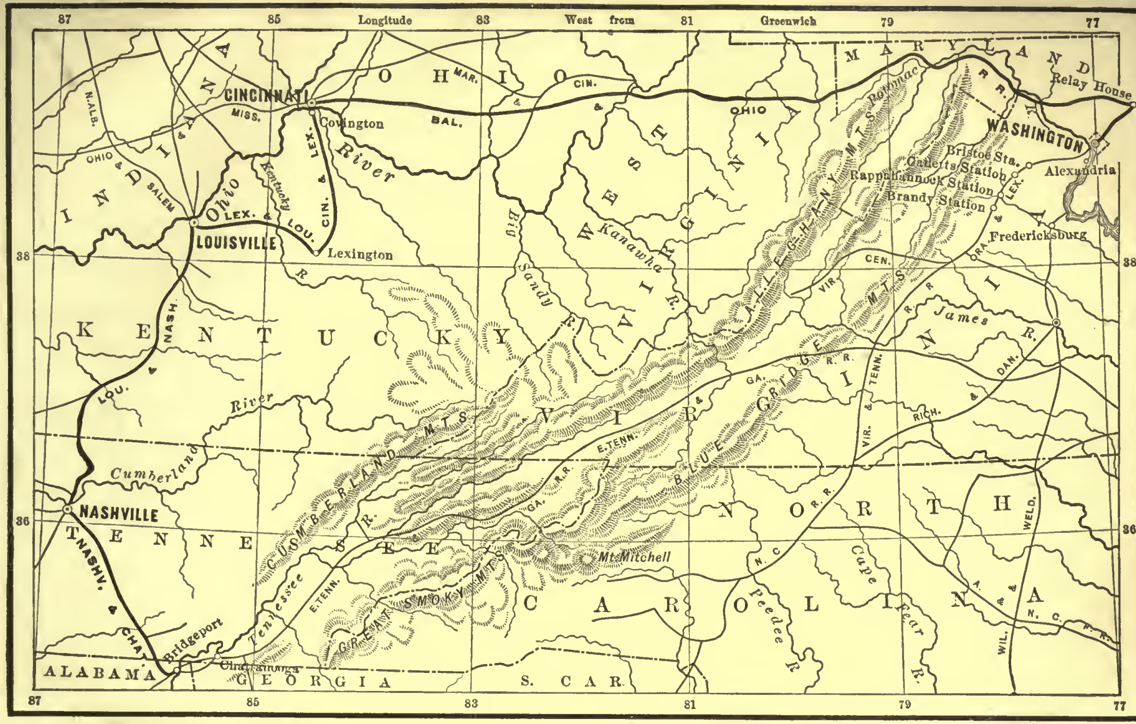
party name. There is no doubt that a great majority of that party were strongly attached to the Union, and anxious for its preservation. They scouted the idea that unionism could be inconsistent with Democracy. Artful men, however, who were in full sympathy with the rebellion, found it easy to confuse the minds of those Democrats who saw no difference between the rights of slave-holders in rebellion against the nation and slave-holders peaceably asserting their rights under the Constitution. From the beginning of the war, the public ear was familiarized with the expression, "I am a Union man, but am no Abolitionist" or "Black Republican." Union men friendly to slavery found themselves in time compelled to choose whether they would support the Union without slavery, or slavery without the Union. Candidates for office appealed to the body of Democratic voters to stand by the Constitution as well as the Union, and explained to their own satisfaction how unconstitutional were all the measures adopted by the government for the preservation of the government itself. The most malignant Northern enemies of the government provided themselves with this formula, and labored for the election of congressmen who would show their devotion to the Union by refusing to vote supplies for the armies. On the other hand, hundreds of thousands of Democrats enlisted in the army and fought bravely, while others of them, equally true to the country's cause, were chosen to seats in Congress, and in all essentials coöperated with the supporters of Mr. Lincoln.

Of course the party in power made mistakes which

were industriously dwelt upon by its opponents. The draft was unnecessary, and the $300 clause was most offensive. Of the two and a half millions of enlistments during the war, but an insignificant proportion were obtained by conscription. The people had been often sorely discouraged by military failures where successes had been promised. They felt at times that the burdens placed upon them could be justified only by clearer evidence than they had yet seen that their sacrifices were to lead to the preservation of the Union.

The secret and organized machinations of the enemies of the government in the North are matters of record. Organized opposition to enlistments, organized encouragement to desertions, traitorous communication of important information to the enemy, and efforts to incite insurrections in centres of population were crimes committed both openly and in secret, secrecy being used where it would secure the coöperation of some who still professed to support the war.

In the face of all these adverse influences, and stronger than all crimes, all accidents, and all mistakes, stood the sturdy common sense of the people, trusting in that embodiment of common sense and high purpose, Abraham Lincoln, and sustaining the great war minister in his double task of marshaling the military resources of the nation in the field and stamping out treason in the rear.



RAILROAD ROUTE OVER WHICH TWENTY-THREE THOUSAND TROOPS WERE TRANSPORTED FROM VIRGINIA TO TENNESSEE IN SEVEN DAYS

CHAPTER LXXVIII

The War in the West. — The Disaster at Chickamauga. — Stanton's Plan for reinforcing Rosecrans, by which 23,000 Troops were transported from Virginia to Chattanooga, Twelve Hundred Miles, in Seven Days.

On the 19th of September, 1863, Bragg, reinforced from Lee's army, attacked General Rosecrans at Chickamauga, and the battle continued throughout the day. It was renewed by the rebels on the following day, resulting in the defeat of the Federal forces and their retreat to Chattanooga. They were saved from utter rout by the courage and tenacity of General George H. Thomas, who, with less than half the army around him, was left to receive the blows of the whole Confederate force. Under the influence of his unbending will the troops stood by him, and simply refused to give way. Night came and he still remained unshaken. He left the field with deliberation and in good order, and "though the moon was up and very bright," says a report, the enemy made no pursuit. The Federal losses in this battle in killed and wounded and missing were 16,850. The enemy's losses were variously reported at from 18,000 to 21,000. Bragg lost forty per cent. of his army, and Rosecrans lost thirty per cent. of his.

General Rosecrans reported to the President on the

evening of the second day's battle that there had been a serious disaster. On the following day he said: —

> Our loss is heavy and our troops worn down. We have no certainty of holding our position here.

On the 22d Charles A. Dana telegraphed Secretary Stanton from Chattanooga as follows: —

> General Rosecrans is considering the question of retreat from here. . . . That part of the army which was routed on Sunday is much demoralized. If you have any advice to give, it should come to-night.

Mr. Lincoln addressed himself most encouragingly to Rosecrans, telling him to be of good cheer, and assuring him of the utmost possible assistance. On the 23d General Rosecrans appealed urgently for reinforcements. The President had directed Burnside at Knoxville on the 21st not to lose a moment in going to the assistance of Rosecrans.

On the 23d Secretary Stanton determined upon sending reinforcements to Chattanooga from the Army of the Potomac, — a scheme which he immediately impressed upon the President by the force of his will, against the opposition of General Halleck, and which he proceeded to execute with his accustomed energy through the proper instrumentalities. The biographers of Mr. Lincoln say: —

> Immediately on receipt of Rosecrans's dispatch (23d) Mr. Stanton sent one of the President's secretaries, who was standing by, to the Soldier's Home, where the President was sleeping. A little startled by the unwonted summons, — for this

was "the first time," he said, "Stanton had ever sent for him," — the President mounted his horse and rode in through the moonlight to the War Department, to preside over an improvised council to consider the subject of reinforcing Rosecrans.

There were present General Halleck; Stanton, Seward, and Chase of the Cabinet; P. H. Watson and James A. Hardie of the War Department; and D. C. McCallum, superintendent of military transportation. After a brief debate it was resolved to detach the 11th and 12th corps from the Army of the Potomac, General Hooker to be placed in command of both.

Following are extracts from an interesting account of the proceedings of this council by Mr. W. H. Whiton, who was first assistant to Colonel D. C. McCallum, chief of the government railway department during the war: —

Major Eckert, the chief of the military telegraph department, rushed in to see me one evening, and said that there was a meeting of the President and his Cabinet in Mr. Stanton's room, discussing the question of transferring General Hooker's corps with all its equipments to Nashville, Tennessee, and as either Colonel McCallum or myself would no doubt be sent for before the meeting was over, we had better study the problem and be prepared to speak. I busied myself with time tables and calculations about trains and the time it would take to make the transfer. Just as I had reached a conclusion that it could be completed in about eight or nine days, Colonel McCallum appeared. He looked over my calculations carefully, and then declared that the movement could be completed inside of seven days. At this moment an orderly rushed in with an order to report to the Secretary at once.

I will tell you what took place as was afterwards told me by Colonel McCallum.

The moment Colonel McCallum entered, the President said: "Colonel McCallum, we are discussing a very serious proposition, and have sent for you who are at the head of the railway department, to learn your views as to the time it will take to complete a certain movement." He then stated the proposition.

As Colonel McCallum was supposed to have never heard of the proposition until that moment, it would not do for him to instantly give an off-hand opinion. He therefore said: "Mr. President, if you will permit me, I will make a few figures," and sat down at a table and began making them. While so engaged not one word was spoken in the room, and the silence became so oppressive that to end it he arose and said: "The transfer can be begun and fully completed within seven days." No sooner had he said seven days than Mr. Stanton jumped up in great excitement, and bringing his clenched fist down on the top of the table, exclaimed in a voice of thunder: "Good, I knew it could be done, and it shall be."

Here Colonel McCallum represented Mr. Stanton as giving expression to much impatience and displeasure towards General Halleck for having estimated that the proposed movement would require forty days.

This outburst of indignation over, President Lincoln quietly said: —

"Colonel McCallum, are you sure about this? There must be no mistake. Are you certain that the movement can be completed within the time you have named?" Colonel McCallum replied: "With the whole power of the government brought to bear in the movement, I will pledge my life to accomplish it inside of seven days." Whereupon the President, after a few moments of silent reflection, turned to Mr.

Stanton and said: "Mr. Secretary, you are the captain. Give the necessary orders and I will approve them."

This was at eleven o'clock P. M. of the 23d of September. At 9.45, and while this council was still being held, Mr. Stanton had received a telegram from Mr. Dana which said: —

The first great object of the campaign — the possession of Chattanooga on Tennessee River line — still remains in our hands, and can be held by this army for from fifteen to twenty days against all efforts of the enemy, unless he should receive reinforcements of overwhelming strength. No time should be lost in pushing twenty to twenty-five thousand effective troops to Bridgeport. If such reinforcements can be got through in season, everything is safe, and this place, indispensable alike to the defense of Tennessee and as a base of future operations in Georgia, will remain ours.

Secretary Stanton replied at once: —

Your telegram of to-day received. Every nerve is being strained to strengthen General Rosecrans and his gallant army. If General Rosecrans holds his ground for half the time stated in your dispatches, there can be no doubt that ample reinforcements can reach him within that period.

It was not until an hour later than this that the President's authority for the transfer of the troops was secured. Mr. Stanton remained at his office throughout that night, and during the first three days and nights of the movement, directing its execution. To the presidents of railroads he telegraphed requests to come to Washington immediately, as also to Thomas A. Scott, who had been an Assistant Secretary of War, and whose assistance he greatly relied on in such an emergency.

At 3.30 A. M. of the 24th he sent the following dispatch to Charles A. Dana: —

We have made arrangements to send fifteen thousand[1] infantry under General Hooker from here, and will have them in Nashville in five or six days from to-day, with orders to push on immediately, wherever General Rosecrans wants them.

At 2.30 of the same morning General Meade was telegraphed to, to know if he had determined upon any immediate movement in Virginia, and if not to prepare the 11th and 12th corps to send to Washington. Cars would be ready for him by the next morning. General Meade answered half an hour later: —

I contemplate an immediate movement, although until your telegraph the decision was not positive, awaiting information to be obtained to-day. The 12th corps is in front on picket, and could not well be withdrawn and got ready in the time you mention.

It is evident that the general was not accustomed to such rapid operations. There is a humorous element in the thought that he had not decided upon an immediate movement until it was proposed to diminish the number of his idle troops. No answer was made to him until 9.30 of the same morning, because General Halleck wanted the President's order in the matter. He was then directed to immediately prepare the 11th and 12th corps to be sent to Washington. General Halleck added to this the following confusing words: "As conditionally ordered before." Fifteen minutes later he explained this dispatch in another, as follows: —

[1] The number actually sent was 23,000.

It is intended by my last dispatch that the 11th and 12th corps shall positively be sent here with the least possible delay.

At 11.30 General Meade replied that every effort would be made to have the troops ready by the following day as ordered.

The telegrams received and transmitted in connection with this movement would make a considerable volume. Arrangements for the utilizing of all accessible railroad equipments and the employment of the proper agents of the government to render these arrangements certain were made in detail by Mr. Stanton, who secured the necessary experts along the whole line from Virginia to Tennessee. No man contributed more to the success of the enterprise than Colonel Thomas A. Scott, of the Pennsylvania railway system. Having served as Assistant Secretary of War under Mr. Stanton, he well understood the Secretary's tremendous force, and what he expected of those who were coöperating with him. One of his exploits was the change of the gauge of the Louisville and Lexington Railroad, authority for which was promptly given him by Mr. Stanton upon his recommendation.

On the 26th General Hooker telegraphed to General Rosecrans's chief of staff: —

The head of the column left last night. I hope to have it in Nashville by the 1st proximo.

The celerity with which repairs were made when necessary is illustrated by the following dispatch to Mr. Stanton from Colonel McCallum, received at the War Department at ten o'clock of the 26th: —

Pope's Head bridge destroyed by the enemy last night. Will be completed in a few minutes.

This bridge was in Virginia. The failure to have thus rapidly restored it would have caused serious delay.

At 8.45, 9.15, and 9.45, on the morning of the 26th, the first three trains of over sixty cars, with over 2000 men, passed Martinsburg, West Virginia, one hundred miles west of Baltimore. At 11 A. M. of the same day twelve trains, with nearly 7000 troops, passed the Relay House, thirty miles from Washington. The railroad officials of the Baltimore and Ohio Railroad sent frequent bulletins to Secretary Stanton of the progress made by the troops.

Such of the railroad officials as were necessary were put into the military service of the government, with commissions, in order that they might have the proper authority to execute military orders. Colonel McCallum, the superintendent of transportation, was given supreme control of the movement, with authority to arrest, if necessary, any who should impede it, whatever their rank might be.

The following telegrams were sent by Mr. Stanton: To John W. Garrett, president of the Baltimore and Ohio Railroad, September 27: —

All your proceedings are cordially approved, and the energy and skill manifested by you and your assistants and subordinates receives the admiration and thanks so well merited.

To Thomas A. Scott, at Louisville, on the 29th: —

Your work is most brilliant. A thousand thanks. It is a great achievement.

To Mr. Dana, at Nashville, on the 30th: —

If Hooker's command goes safely through, all that the Army of the Cumberland will need will be a competent commander. The merit of General Thomas — and the debt of gratitude the nation owes to his policy and skill — is fully appreciated here, and I wish you to tell him so. It was not my fault he was not in chief command many months ago.[1]

To Major-General Hooker, at Nashville, "or wherever he may be," October 2, 1863: —

Thanks for your telegram of yesterday. The movement is satisfactory. Any one would be hard to please that is not satisfied, except the enemy, who only found two days ago where you were gone. All success attend you and your operations.

Colonel McCallum had kept his word, and the transportation of 23,000 troops had been accomplished in less than seven days. The troops themselves were not aware of their destination, Mr. Stanton having at the outset required Colonel McCallum to give no information on the subject. And thus it was, as stated by Mr. Stanton, that the enemy knew not of the destination of the troops until after their arrival there.

On the 11th of October General Hooker telegraphed Mr. Stanton: —

If you projected the movement of the 11th and 12th corps, you may justly claim the merit of having saved Chattanooga to us.

In his "Memoirs," vol. ii. p. 24, General Grant thus

[1] He referred of course to the command of the Army of the Cumberland.

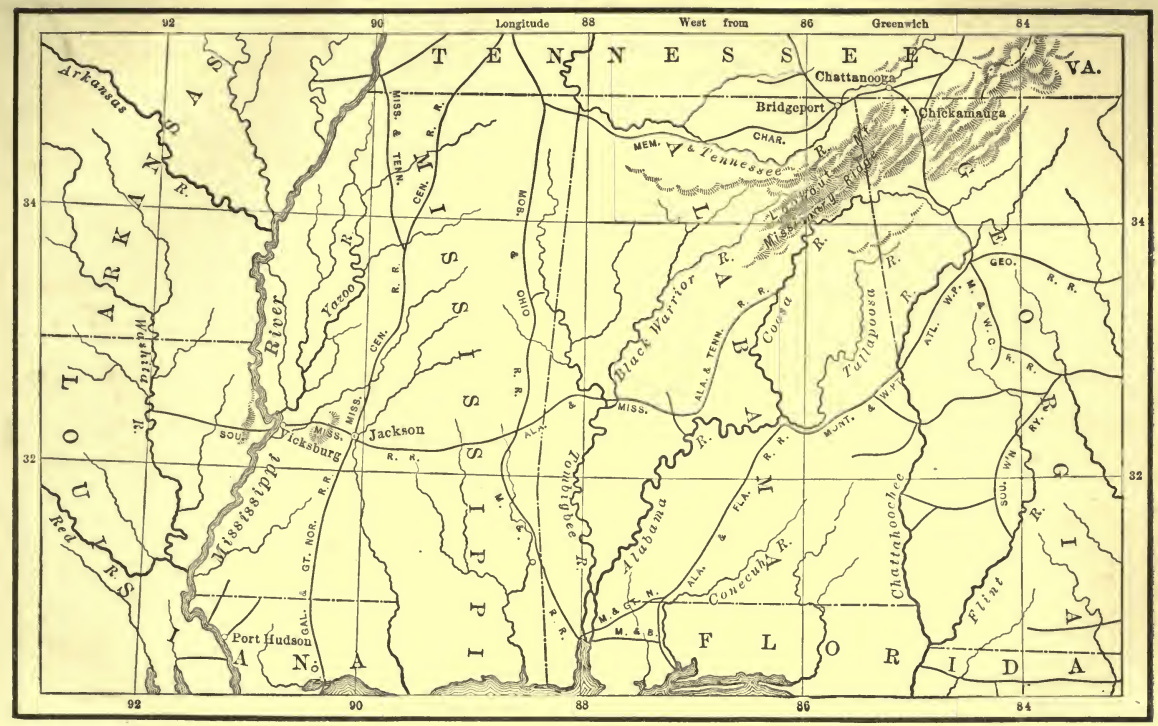
describes the consequences that would have followed the loss of Chattanooga: —

> A retreat at that time would have been a terrible disaster. It would not only have been the loss of a most important strategic position to us, but it would have been attended with the loss of all the artillery still left with the Army of the Cumberland, and the annihilation of that army itself, either by capture or demoralization.

General Sherman in his "Memoirs," at page 400, refers to this remarkably rapid movement of troops as one of the two best examples known to him of the transfer of large armies by rail from one theatre of action to another.

The movement was originated by Mr. Stanton, and its success was the result of the combined work of numerous agencies; but these agencies were all set in motion and energized by the force of his will. In a letter to General Hooker, of the date of December 21, Secretary Chase said: —

> I cannot tell you how much I have been gratified by your brilliant achievements in Tennessee and Georgia. How providential it was that you were sent West at the head of the 11th and 12th corps. It seems clear now that but for Mr. Stanton's determination in insisting on these reinforcements going promptly, and going under you, Rosecrans's army would have experienced the greatest disaster.



MAP TO ILLUSTRATE THE CHATTANOOGA CAMPAIGN

CHAPTER LXXIX

Stanton meets General Grant at Louisville, Kentucky. — Grant placed in Command of the Armies of the Ohio, the Cumberland, and the Tennessee, with Headquarters at Chattanooga. — Rout of Bragg's Army. — Grant on the Result. — Stanton's Summary of the Year's Operations. — Grant made Lieutenant-General with Headquarters in the East. — Sherman succeeds him in the West.

General Rosecrans's dispatches to Washington were most discouraging, and showed that his mind was filled with alarm. He had not recovered from the shock he received at Chickamauga. On the 16th of October Mr. Dana wrote to Secretary Stanton: —

With plenty of zealous and energetic officers ready to do whatever can be done, all this precious time is lost because our dazed and mazy commander cannot perceive the catastrophe that is close upon us and fix his mind upon the means of preventing it. I never saw anything which seemed so lamentable and hopeless.

In response to a telegram from Secretary Stanton, General Grant, though still suffering from lameness, caused by a fall from his horse in New Orleans nearly two months before, arrived at Cairo, Illinois, on the 16th of October, and on the following morning was directed to proceed from there to Louisville, Kentucky, to meet an officer of the War Department with in-

structions. The officer of the War Department was Secretary Stanton himself. General Grant gives the following account of their first meeting: —

Just as the train I was on was starting out of the depot at Indianapolis, a messenger came running up to stop it, saying the Secretary of War was coming into the station and wanted to see me.

I had never met Mr. Stanton up to that time, though we had held frequent conversations over the wires the year before, when I was in Tennessee. Occasionally at night he would order the wires between the War Department and my headquarters to be connected, and we would hold a conversation for an hour or two. On this occasion the Secretary was accompanied by Governor Brough, of Ohio, whom I had never met, though he and my father had been old acquaintances. Mr. Stanton dismissed the special train that had brought him to Indianapolis, and accompanied me to Louisville.

Up to this time no hint had been given me of what was wanted after I left Vicksburg, except the suggestion in one of Halleck's dispatches that I had better go to Nashville and superintend the operation of the troops sent to relieve Rosecrans. Soon after we started, the Secretary handed me two orders, saying that I might take my choice of them. The two were identical in all but one particular. Both created the "military division of the Mississippi" (giving me the command), composed of the departments of the Ohio, the Cumberland, and the Tennessee, and all the territory from the Alleghanies to the Mississippi River north of Banks's command in the southwest. One order left the department commanders as they were, while the other relieved Rosecrans and assigned Thomas to his place. I accepted the latter. We reached Louisville after night, and, if I remember rightly, in a cold, drizzling rain. The Secretary of War told

me afterwards that he caught a cold on that occasion from which he never expected to recover. He never did.

A day was spent in Louisville, the Secretary giving me the military news at the capital and talking about the disappointment at the results of some of the campaigns. By the evening of the day after our arrival, all matters of discussion seemed exhausted, and I left the hotel to spend the evening away, both Mrs. Grant (who was with me) and myself having relatives living in Louisville. In the course of the evening Mr. Stanton received a dispatch from Mr. C. A. Dana, then in Chattanooga, informing him that unless prevented, Rosecrans would retreat, and advising peremptory orders against his doing so.

If a retreat had occurred at this time, it is not probable that any of the army would have reached the railroad as an organized body, if followed by the enemy.

On the receipt of Mr. Dana's dispatch Mr. Stanton sent for me. Finding that I was out, he became nervous and excited, inquiring of every person he met, including guests of the house, whether they knew where I was, and bidding them find me and send me to him at once. About eleven o'clock I returned to the hotel, and on my way, when near the house, every person met was a messenger from the Secretary, apparently partaking of his impatience to see me. I hastened to the room of the Secretary, and found him pacing the floor rapidly, in his dressing gown. Saying that the retreat must be prevented, he showed me the dispatch. I immediately wrote an order, assuming command of the military division of the Mississippi, and telegraphed it to General Rosecrans. I then telegraphed to him the order from Washington, assigning Thomas to the command of the Army of the Cumberland; and to Thomas that he must hold Chattanooga at all hazards, informing him at the same time that I would be at the front as soon as possible. A prompt reply was received from Thomas, saying, "We will hold the town till we starve." I

appreciated the force of this dispatch later when I witnessed the condition of affairs which prompted it. It looked, indeed, as if but two courses were open, — one to starve, the other to surrender or be captured.

The condition to which he referred was Bragg's possession of the heights west of Chattanooga, which commanded the railroad, the river, and the best wagon roads from Chattanooga to Bridgeport. All supplies had to be brought from Nashville. From Nashville to Bridgeport the government was in full possession of the railroad, but between Bridgeport and Chattanooga, a distance of twenty-six miles, "owing to the possession of Bragg, all supplies for Rosecrans had to be hauled by a circuitous route north of the river and over a mountainous country, increasing the distance to over sixty miles." Nearly six thousand animals had starved, and the command had been on half rations of hard bread for a considerable time. Shoes and food were lacking, and even fuel.

Mr. Stanton's account of these events is contained in the following dispatches to General Halleck: —

October 19 General Grant accepted the command at once, and has already issued his orders to Thomas. He considers it indispensable that Rosecrans should be relieved because he would not obey orders. His health and spirits are very good, but he is still quite lame, and moves with difficulty on a crutch. Meigs is here.

October 20, Sunday night, General Grant issued his orders taking command. Generals Burnside, Rosecrans, and Thomas reported last night. General Grant has gone forward with General Meigs, and will reach Chattanooga to-night or to-morrow. Thomas says if the supply wagons now

on the road arrive safely, they will be all right to the first of November at least. . . .

General Meigs has taken with him a large supply of tools for blasting and opening the road across the mountains, and everything possible has been done for railroad transportation.

On the 21st General Grant going South met General Rosecrans on his way North. In his "Memoirs" General Grant says of this meeting: —

He came into my car and we held a brief interview, in which he described very clearly the situation at Chattanooga, and made some very excellent suggestions as to what should be done. My only wonder was that he had not carried them out.

General Grant established his headquarters at Chattanooga on the 22d of October; he was still on crutches. At his request General Sherman was assigned to the command of the Army of the Tennessee. Within five days Grant had opened the way from Chattanooga to Bridgeport and raised the siege. Supplies of food, clothing, and ammunition came in abundance. Bragg's Confederate report of the condition during the siege said: —

These dispositions, faithfully sustained, insured the enemy's speedy evacuation of Chattanooga for want of food and forage. Possessed of the shortest route to his depot, and the one by which reinforcements must reach him, we held him at our mercy, and his destruction was only a question of time.

Referring to this in his "Memoirs," General Grant says: —

The dispositions were not "faithfully sustained."

General Grant ordered General Sherman to join him, which he did on the 15th of November. Bragg felt so confident in his positions that he sent Longstreet with 20,000 of his men against Burnside at Knoxville, Tennessee. The government was much alarmed for the safety of Burnside's command. But Grant's method of relieving him was to fight the enemy at Chattanooga.

Nothing in the annals of the civil war surpassed Grant's brilliant Chattanooga campaign. Missionary Ridge, Lookout Mountain, and Chattanooga made him the choice of every Union man in the land for the command of all the forces of the United States. The names of Sherman, Thomas, and Hooker were, by their share in these great operations, still further assured high places on the scroll of fame.

Upon the final defeat of Bragg at the battle of Chattanooga, General Grant telegraphed to General Halleck at 1 A. M. on the 27th as follows: —

> I am just in from the front. The rout of the enemy is complete. Abandoned wagons, caissons, and occasional pieces of artillery are everywhere to be found. I think Bragg's loss will fully reach 60 pieces of artillery. Large numbers of prisoners have fallen into our hands.

Commenting on these results in his "Memoirs," General Grant says: —

> It would have been a victory for us to have got our army away from Chattanooga safely. It was a manifold greater victory to drive away the besieging army; a still greater one to defeat that army in his chosen ground and nearly annihilate it.

He further says: —

Then, too, Chattanooga falling in the same half year with Gettysburg in the East, and Vicksburg in the West, there was much the same feeling in the South at this time as there had been in the North the fall and winter before.

Knoxville was at once relieved, eliciting from President Lincoln a telegram of warmest recognition. On the 20th of December General Grant moved his headquarters to Nashville, Tennessee, leaving General Thomas in command at Chattanooga.

These were the last military operations of importance conducted by General Grant in the West.

In his annual report of December, 1863, Secretary Stanton thus summarized the military operations of the year: —

The victories of Stone River and of Gettysburg, the operations before Vicksburg and Port Hudson, the occupation of east Tennessee, the battle of Chickamauga, and the recent splendid successes before Chattanooga, and other engagements of less note, are events that evince skill, courage, and loyal patriotism, and a brilliancy of military achievement by the forces of the United States unsurpassed in any age, while the less fortunate battle of Fredericksburg and Chancellorsville manifested the spirit and fortitude of our troops in a degree worthy of the highest admiration.

By the reduction of Vicksburg and Port Hudson, the navigation of the Mississippi River has been opened, and the national commerce is rapidly and securely returning to that great highway of the continent. The rebel territory has been cut in twain; the States west of the Mississippi no longer furnish their ample supplies to the rebels.

The genius and ability which had been displayed by

General Grant were so fully appreciated by the people and by their representatives in Congress that on the 26th of February, 1864, Congress enacted a law restoring the grade of lieutenant-general in the army. On the 1st of March General Grant was nominated for that office by the President, and confirmed by the Senate the next day. On the 3d of the same month the general was ordered to Washington. On the 9th his commission was delivered to him by the President at the executive mansion. In doing this the President in fitting terms expressed the fullest appreciation of General Grant, and the country's reliance upon him for what yet remained to be done. In accepting the commission the general expressed his gratitude for the high honor conferred, and praised the noble armies that had fought in so many battles, concluding with these words: —

> I feel the full weight of the responsibilities now devolved upon me, and I know if they are met, it will be due to those armies, and above all to the favor of that Providence which leads both nations and men.

General Sherman succeeded General Grant in chief command at the West. Almost immediately afterwards General Grant returned to the West for a brief visit, and for a conference with General Sherman, whom he telegraphed to meet him at Nashville. They rode from Nashville to Cincinnati together on Grant's return to Washington, discussing on the way the coöperation of their commands when the spring campaign should open. Grant's objective was to be Lee's army and incidentally the rebel capital, while Sherman's was to be the army of Johnston, which was defending At-

lanta and the interior of Georgia. General Grant was given entire control of military operations, and in his "Memoirs," as well as in his statement before the Committee on the Conduct of the War, bears willing testimony to this fact. On the 1st of May he wrote to Mr. Lincoln from his headquarters at Culpeper, Virginia: —

> From my first entrance into the volunteer service of the country to the present day I have never had cause of complaint, have never expressed or implied a complaint, against the administration or the Secretary of War for throwing any embarrassment in the way of my vigorously prosecuting what appeared to be my duty.

In his "Memoirs" he says: —

> While my headquarters were at Culpeper, from the 26th of March until the 4th of May, I generally visited Washington once a week to confer with the Secretary of War and the President.

On the 4th of May Grant opened the campaign in Virginia, and Sherman opened his campaign in Georgia.

PART VIII

END OF THE WAR AND DISBANDMENT OF THE ARMY

CHAPTER LXXX

The Presidential Campaign of 1864. — Its Vital Importance. — Lincoln and McClellan. — The Latter for the Union by Compromise and Conciliation. — Also for the War on a Peace Platform, and a Cessation of Hostilities for Peace Negotiations. — Machinations of the Copperheads. — Conferences between their Representative Men and the Rebel Emissaries in Canada as reported to Mason and Slidell by Jacob Thompson. — Plots for a "Western Confederacy" which would dictate Terms to the United States.

While the two great generals of the war were inaugurating in perfect concert the great military operations East and West which were to end in the destruction of the Southern Confederacy, plans were being made of equal importance for marshaling the contending armies of voters who were to determine at the presidential election, six months later, whether the war for the Union should be further prosecuted or ingloriously abandoned.

The Union national convention assembled at Baltimore on the 7th of June. The call for this convention was addressed to "all qualified voters who desire the

unconditional maintenance of the Union, the supremacy of the Constitution, and the complete suppression of the existing rebellion, with the cause thereof, by vigorous war and all patriotic and efficient means."

The convention adopted a platform opposing compromise with the rebels and demanding their unconditional surrender and a return to their allegiance to the Constitution and laws of the United States as the only terms of peace. It upheld the Emancipation Proclamation, and furthermore demanded an amendment to the Constitution of the United States forever prohibiting slavery within the limits of the nation. Abraham Lincoln was renominated by the unanimous vote of the convention. Andrew Johnson was nominated for the vice-presidency.

The Democratic national convention assembled at Chicago on the 29th of August. Governor Horatio Seymour, of New York, was made its permanent president. In addressing the convention he declared that "this administration cannot now save the Union if it would. It has, by its proclamations, by vindictive legislation, by displays of hate and passion, placed obstacles in its pathway which it cannot overcome, and has hampered its own freedom of action by unconstitutional acts."

The platform of the convention declared in favor of the "Union under the Constitution," but also declared that "after four years of failure to restore the Union by the experiment of war, . . . justice, humanity, liberty, and the public welfare demand that immediate efforts be made for a cessation of hostilities, with a

view to an ultimate convention of the States, or other possible means, to the end that at the earliest practicable moment peace may be restored on the basis of the federal union of the States." It finally declared "that the sympathy of the Democratic party is fully and earnestly extended to the soldiery of our army and the sailors of our navy," and promised protection for them in the event of the success of the Democratic party.

General George B. McClellan was nominated for the presidency, and George H. Pendleton, of Ohio, for the vice-presidency. The vote was 202½ for McClellan to 28½ for Thomas H. Seymour, of Connecticut. Upon the motion of C. L. Vallandigham,[1] McClellan's nomination was made unanimous. The nomination of Mr. Pendleton was unanimous on the second ballot. McClellan accepted the nomination in a letter dated September 8. In this letter he declared that the war should have been conducted solely for the preservation of the Union; and that "thus conducted, the work of reconciliation would have been easy." He declared that the Union must be preserved and restored by conciliation and compromise.

Instead of adjourning *sine die* at the conclusion of its proceedings, the convention unanimously adopted the following resolution: —

[1] In a letter to the editor of the New York *News*, Mr. Vallandigham stated that he wrote the resolution of the convention which declared the war a failure, and which advocated an armistice and a convention of the States. In the same letter he said he had fulfilled as many engagements to speak in support of the Democratic candidates as any Democratic speaker in the State. He was then canvassing in the State of Illinois.

Resolved, That this convention shall not be dissolved by adjournment at the close of its business, but shall remain organized, subject to call at any time and place that the executive national committee shall designate.

The reason assigned for this resolution was thus stated by Mr. Wyckliffe, of Kentucky, by whom it was offered: —

The delegates from the West are of the opinion that something may occur between noon of to-day and the 4th of March next, which will make it proper for the Democrats of the country to meet in convention again.

The resolution was eminently suggestive of the possibility of a post-election revolutionary struggle for the presidential succession, in the event of anything like a close contest at the polls.

That there was a connection between the peace party in the North and the Southern Confederate government, at this time, is clearly shown by the following extracts from a letter written by Jacob Thompson from Toronto, Canada, August 23, 1864, to John Slidell and James M. Mason. Slidell and Mason were respectively the Confederate emissaries to France and Great Britain. Thompson had left the Cabinet of Mr. Buchanan in 1861, to join the rebellion.[1]

Mr. Thompson informed Messrs. Mason and Slidell that in May preceding he and Clement C. Clay, of Alabama, had been commissioned by Jefferson Davis, and by him provided with funds, to "proceed to Canada without delay, and ascertain the public sentiment and

[1] This letter appeared in the January number, 1887, of the *Southern Bivouac*.

the feeling of the people of the United States, and, so far as practicable and honorable, to utilize the prejudices existing against the conduct of the war in the advancement of the interests of the Confederate States." He thus continued: —

At Montreal we had various conferences with representative men of the North, with a view to forming in the outset some basis which should govern our opinion as to the best course to pursue thereafter.

As the advancement of the rebel interests was the object of Mr. Thompson's visit to Canada, the "representative men of the North" who were consulted as to the best course to pursue must have been Northern men representative of Confederate interests.

Mr. Thompson referred to the battles of Spottsylvania, the Wilderness, and Cold Harbor, and the Northern belief that "Grant's masterly flank movements would eventually result in destroying Lee's army in front of Richmond; that Sherman was advancing on Atlanta in sufficient force, and that he would inevitably defeat Johnston in Georgia."

He then said: —

All things considered, the result of the conferences we had held at Montreal led me to conclude that Lincoln would be reëlected overwhelmingly, and thus would be continued the present iniquitous policy of the administration for four years more. In discouragement I went to Windsor, where an arrangement had been made with Hon. C. L. Vallandigham, who expressed the sentiment of the peace party of the United States, that if Grant failed before Richmond and Sherman was not successful in Georgia, a peace candidate might be elected to the presidency.

He appears to have been much encouraged by this information. He says in his letter: —

Our armies are strong enough to meet and repulse the present organized Federal force, and this is confessed by the action of Mr. Lincoln in the present draft for 500,000 more men. These, however, if raised, will not be able to participate in the fall and winter campaigns. Grant will be bound to withdraw from in front of Petersburg, and even if Sherman should succeed in capturing Atlanta, it is improbable that his great army can escape destruction in its present perilous position.

These were the words of a hopeful man.

But the expected failure of Grant and Sherman was to be reinforced by another powerful element of strength for the Confederacy. This was to be nothing less than a rebel organization in the Northwestern States. That a treasonable conspiracy existed in that region for the inauguration there of a revolution against the government in aid of the Confederate cause was not a matter of conjecture or of irresponsible rumor. An account of that conspiracy, of the objects which it hoped to accomplish, and the conditions deemed necessary for its success, was given to Mr. Thompson in his interview with Vallandigham. Mr. Vallandigham was accepted by Mr. Thompson as good authority for the extent and objects of this organization. Continuing his account of his interview with Mr. Vallandigham, he says: —

He informed me of the existence, in the Western States, of an order known as the "Sons of Liberty," the basis of whose organization was state sovereignty, state rights, and

individual freedom, and whose rank and file could be relied upon to obey the orders of officers placed over them. The United States government held Confederate prisoners at Chicago and Rock Island amounting to about 15,000, and at Indianapolis, Indiana, about 5000.[1] The membership of the "Sons of Liberty" is, in Illinois, Indiana, and Ohio, in the aggregate about 170,000 men. It can be, I confidently feel, so arranged that these States shall be organized into a Western Confederacy, with such advantages as will enable them to dictate terms of peace to the United States government. To this end I am addressing every energy that is practicable and reasonable to assist the Northwestern people, and everything justifies the belief that success will ultimately attend the undertaking.

It is proposed by the Northwestern people to take possession of the present organized governments of the three States mentioned, and organize provisional governments for the purposes in view. The severity of military orders, and a total disregard of private rights and personal liberty in the Western States of Kentucky, Missouri, Indiana, Illinois, and Ohio, have aroused the people to madness, and prepared them in their desperation to seize upon the first glimmer of hope to dare all, and in doing so to regain what they have lost. In order to arouse the people, political meetings, called peace meetings, have been held, and inflammatory addresses delivered, and whenever orators have expressed themselves for peace with the restoration of the Union, and, if that cannot

[1] Lieutenant Bennet H. Young, C. S. A., reported to General Cooper, adjutant-general, C. S. A., from Chicago, Illinois, under date of August 31 of that year, giving the following explanation of the reasons why the plan to release the Confederate prisoners at that time failed of execution: —

"The augmentation of Federal troops here and the fears of some of the so-called 'peace Copperheads' in the convention prevents the carrying out of our plans to release the prisoners in the Federal bastile here."

be, then peace on any terms, the cheers and clamor of the masses have known no bounds.

On the 28th of September Secretary Stanton assigned General Hooker to the command of the Northern Department, embracing the States of Michigan, Ohio, Indiana, and Illinois, with headquarters at Columbus, Ohio. He was directed to look to the proper defense of the camps at which prisoners of war were confined, and especially the camp at Johnson's Island. Frequent efforts had been made prior to that time by rebels in Canada to liberate these prisoners. He was to diligently inspect all dangerous points on the northern frontier, and adopt measures of protection against hostile inroads from rebel marauders from Canada. Judge Holt, the head of the bureau of military justice of the War Department, made a report to Secretary Stanton on the 8th of October, 1864, "in regard to the secret associations and conspiracies against the government formed principally in the Western States by traitors and disloyal persons." The official report fully confirmed the statement made by Mr. Vallandigham to Mr. Thompson, the rebel emissary in Canada of Jefferson Davis. The secret orders on which such high hopes were built were shown by abundant evidence to have been partially placed on a war footing.[1]

[1] The trial of Milligan and others by a military commission at Indianapolis in September and October for conspiracy against the government, and in aiding in the organization of the order of "American Knights" or order of "Sons of Liberty," brought to light the records and proceedings of those treasonable combinations, and exhibited the purposes of the so-called peace Democrats, who had succeeded in controlling for the time the organization of the Democratic party, and who were seeking the control of the government through the election to the presidency of a discredited warrior mounted upon a peace platform.

CHAPTER LXXXI

A Voluntary Peace Commissioner. — Hon. Jeremiah S. Black visits the Rebel Commissioners, Thompson and Clay, in Canada. — His Correspondence with Mr. Stanton on the Subject.

LATE in August Hon. Jeremiah S. Black made a visit to Canada for the purpose of consulting with the rebel commissioners, Jacob Thompson and Clement C. Clay. In the letter of Thompson to Mason and Slidell of August 23, referred to in the preceding chapter, Mr. Thompson made the following statement concerning Judge Black's visit: —

You are aware of the former intimacy existing between Judge Black, of Pennsylvania, Mr. Stanton, and myself.

Stanton has acted in many respects shamefully, and has forfeited much of that respect that Judge Black formerly entertained for him.

Three days ago, however, Judge Black visited me in Toronto, delegated by Mr. Stanton to do so, and stated to me that Mr. Stanton was convinced of the present prospect of Mr. Lincoln's overthrow in November, and of the necessity of something being done which, in that event, would allay the exasperated state of public feeling at this time.

Mr. Stanton does not believe that anything except a determined favorable turn in military affairs will prevent the defeat of the Republican party at the next election, and Judge Black has come to me to learn the state of feeling in the Confederate States, and to know whether I was able to

say if negotiations for peace could be opened without the ultimatum of final separation.

I am given to understand that a proposition will be considered which will secure us in all our rights, present and prospective.

Judge Black has returned to Washington, however, promising to communicate with me without further delay.

A dispatch to the New York "Herald" of August 22 stated that Judge Black had visited the rebel commissioners in Canada on behalf of the administration; that he had labored unsuccessfully to obtain the ultimatum of the rebel representatives; that the question of an armistice and a convention of the States had been talked over. It was represented that Thompson and Clay had made a reply, the terms of which were not public, but that Judge Black had given the rebels to understand that the administration was willing to enter into negotiations for an armistice.

Judge Black went from Canada to his home in York, Pennsylvania, from whence he addressed a letter to Mr. Stanton, dated August 22, commencing as follows: —

Agreeably to the wish expressed by you in our last conversation (but not in consequence of it), I saw Mr. Thompson, of Mississippi.

He then proceeded to set forth the substance of the conversation which took place between them. Judge Black had told Mr. Thompson that "though he was in no sense an agent of the federal government, yet if he learned any fact from him which it was important that the public authorities should know, he would regard it as his duty to communicate it to some member of the

administration at Washington." He then gives in his own language what he understood to be the opinions of Mr. Thompson. Judge Black discovered that the rebels regarded "the abolitionists as being considerably worse than so many fiends from the bottomless pit," and that they were "false, faithless, and treacherous, as well as cruel and rapacious." He thought that "suspension of active hostilities for three or four months, and the employment of that time in fair negotiations, would settle the business." He foreshadowed the demands which would be made by the South, the central idea being the guarantee of state rights as understood by the rebels, meaning, of course, state supremacy in determining what such rights were. He made the following suggestion to Mr. Stanton: —

> I do not presume to advise you, but if I were in your place, I would advise the President to suspend hostilities for three or six months and commence negotiations in good earnest, unless he has irrevocably made up his mind to fight it out on the emancipation issue.

In a postscript he said: —

> I made up my mind some weeks ago to pay Mr. Thompson a visit, impelled mainly by motives arising out of our past intimacy and long personal friendship. When I saw you last, I mentioned that intention in the course of mere casual conversation. You expressed your approbation of it and your wish that I should carry it out. This is all the connection that any member of the administration had with the affair.

He also stated that "in the conversation with Thompson nothing positive or very direct was said

about the restoration of the Union." But he considered it certain that the rebels would at once "agree to a close commercial arrangement and a military alliance, offensive and defensive, for the protection of American interests." He thought a six months' truce and a proposal from our government to secure the States in their rights would "come like oil upon the waves."

The letter was a long one, and would have occupied two columns of a newspaper. It was not marked "private" or "personal," and might well have been intended for publication. It commenced and closed with the statement that Mr. Stanton had expressed the wish that he (Black) should see Thompson. This contained the suggestion that so dark was the outlook for the Union cause at that time that even the resolute spirit of Stanton, which nothing had ever before daunted, was at last not only beginning to quail, but had become so despondent that he had sent his old friend Black to their old friend Thompson to see what terms he could obtain for the United States, if they felt compelled to yield the struggle. The letter proceeded upon the assumption that the war was not for the Union, but only for the abolition of slavery. The rebellion he characterized as the "struggle for freedom." The discussion of the armistice was in such a tone as would have been adopted if Judge Black had been sent to Canada to negotiate for one. Judge Black's letters corresponded with the sensational newspaper statements of what occurred during his visit to Canada.

Secretary Stanton replied to Judge Black's letter as follows: —

Your account of your recent interview with Mr. Thompson reached me a few days ago, but until now I have not had time to examine it. In my view it clearly proves that the rebel leaders desire and at present will accept no peace but upon the terms of absolute independence of the Confederate government, the dissolution of the Union, and the establishment of two or more governments within the territorial limits of the United States. Upon whatever other points they may chaffer, this appears to be with them, at the present time, an indispensable condition, without which they will continue the war as long as they can. Believing this to be their purpose, I am not disposed to give the President the advice you recommend; and see no occasion to accept your offer to be cross-examined, especially as you frankly acknowledge that your report in respect to Thompson's views may have been influenced by your desire "helping you to a conclusion."

It seems a little curious, the pains taken to connect your visit to Thompson with my "wish" and my "approbation." As our old friend Jim Dunlop used to say, this appears a "little previous." I do not suppose anybody cares when or how often you visit Thompson, nor what you talk about with him; but when you called in the morning to pay me, as you professed, a private, friendly visit, I did not suspect you would afterwards talk about it as a visit to a "cabinet officer;" and while we were talking of public persons and things, past and present, and you expressed a desire to see Thompson, and your belief that he would tell you the truth about Southern feeling, I did not imagine you were making out credentials as an agent of my "wishes" or a seeker of my "approbation."

But this is a matter of trifling importance. You have seen Thompson and no harm is done to anybody; but as in what

you report of him your desire may have "helped you to the conclusion," so the wish to see him may have helped you to the belief that I wished what was to me a matter of perfect indifference, and approved what I did not care about one way or the other. The upshot of it all is that you go for an armistice, which is nothing more and nothing else than what South Carolina wanted when the rebellion began. You and I then opposed it as fatal to our government and our national existence; I still oppose it on the same ground.

In his reply to this Judge Black admitted that Mr. Stanton was in no wise responsible for his visit to Mr. Thompson, nor for anything said or done by him on that occasion. This was a complete contradiction of Thompson's assurances to Messrs. Mason and Slidell that he (Black) professed to have been "expressly delegated by Mr. Stanton." He repeated, however, the statement — denied by Stanton — that he visited Thompson in accordance with the latter's wish and with his approbation. Other contentions in his letter were so contrary to any right recollection of recorded facts that it may well be set aside entirely and charged to a defective memory.

CHAPTER LXXXII

The Presidential Election. — Stanton's Precautions against Rebel Raids from Canada, and the Colonization of Voters. — His Order to Department Commanders. — General Grant coöperates with him. — General Butler in Command in New York City. — Voting by Soldiers in the Field. — Reëlection of Lincoln. — His Comments on the Result.

In October information, the truth of which seemed apparent, came to the War Department that the rebel agents in Canada were arranging for colonizing voters on a large scale in the States on the northern border, and for raids for purposes of plunder. Accordingly the following order was made by Secretary Stanton on the 24th of that month to General Dix at New York city, commanding the Department of the East, and to General Hooker at Columbus, Ohio, commanding the Department of the North: —

This department has received information that the rebel agents in Canada design to send into the United States, about this time, a large number of refugees, deserters, and enemies of this government, and to colonize them at different points for the purpose of voting at the approaching presidential election, and also, perhaps, with a view of organizing a system of robbery and incendiarism in such cities, towns, villages, and districts as they may find unprotected. You are therefore directed to take any measures that may be in your power to defeat this nefarious scheme, and to bring to justice those

who may participate therein. The persons who have come into the United States from Canada upon this business belong to one or the other of the following classes: —

First. Citizens of insurgent States who have been engaged in the rebel service, or in acts of hostility against the United States during the present rebellion.

Second. Deserters from the military service of the United States.

Third. Persons who have been drafted or subject to draft for military service, and have fled to escape their obligation to their country.

All of these persons are liable to punishment under military law for the offenses they have already committed. Although you may be unable to prevent such persons from coming within the United States, and perhaps from voting at the election, yet their presence here will afford an opportunity, with proper vigilance, for their arrest and punishment. You will therefore direct your attention especially to the adoption of measures to prevent their escape from the States or districts into which they may come, and for their capture. All provost marshals in the States within your command are subject to your order. You will give to them such directions as your judgment may dictate, and apply for such force as may be required to establish on the Canadian frontier a perfect cordon, through which the miscreants will not be able to escape. It will be proper also for you to give timely notice to the electors within your district of the dangers threatened from the sources above referred to, so as to enable them to take measures for their own security and to aid the military authority.

On the 23d of October Secretary Stanton addressed the following letter to General Grant on the subject of preserving order in New York during the elections and strengthening the condition of the forts in New York harbor: —

The aspect of affairs in New York city and State urgently demands attention, as well for the security of the forts in the harbor of New York, the defense of the Lake frontier from invasion, and for the purity of the ballot-box from rebels imported from Canada. I have just had a conference with General Dix, who was called here for a conference upon this subject. He informs me he has already, in a communication to you as general commanding all the forces of the United States, reported the insecure condition of the forts in New York harbor. You are aware that there are no troops in Washington or elsewhere at the disposal of the department to meet this necessity. General Dix informs me that during the coming week he will be able to send you five thousand new recruits, but, for want of organization, and also for local reasons, they are not a proper force to place in garrison. Allow me to suggest whether, in view of their accession to your army, you can spare two or three thousand men temporarily, to be sent to New York and placed under his command? I see no other way of meeting the emergency. By the 15th of November the necessity will have passed away, or, by troops from other States, those now to be forwarded can be replaced. Please favor me with your views on this subject at your earliest convenience.

To this General Grant replied on the 24th: —

The very significant dispatches sent by private hands, and your letter in relation to affairs in New York, are received. It is consoling to know that Sheridan defeated the first part of the rebel programme so signally.[1] I am at a loss to know what was expected to be done in the North further than to colonize voters, unless it is to control the polls by violence at stated points where these imported voters are colonized. I had ordered another regiment of regulars to report to General Dix before receiving your letter. I see the absolute necessity

[1] By his thorough operations in Shenandoah Valley.

of further reinforcing him, and it must be done. I do not like the idea of sending troops from here, but if they cannot be spared from elsewhere, they must go. Cannot two or three of the new regiments now raised in the North be sent there? I would not advise taking new New York regiments, but those from Pennsylvania or the New England States would answer.

Senator E. D. Morgan, of New York, wrote to Mr. Stanton on the 29th of October, as follows: —

The near approach of the presidential election and the more than probable result of the reëlection of Mr. Lincoln is producing among many of his opponents a very desperate feeling, and both their press and their public men use expressions of violence which have alarmed many of our most staid citizens. For these reasons several gentlemen of the highest respectability have to-day conferred together upon the subject, and have come to the conclusion that the presence in the neighborhood of a military force, in addition to the militia regiments in this city and Brooklyn, would be of most essential service. Therefore at their solicitation that I should do so, and in accordance with my own judgment, I respectfully request that (3000) three thousand troops be sent here without delay. If there is to be any outbreak, this city and State is where it will occur. The expense and the trouble which will be thereby incurred ought not to preclude our putting this matter beyond all hazard.

On the 4th of November Major-General Dix, commanding the Department of the East, announced in a general order that Major-General Butler had been assigned to duty in that department, and would take command of the troops arriving there to meet existing emergencies, and that such troops in service for the State of New York would be subject to his orders.

The election laws in several of the States had been so amended as to allow citizens of those States absent and on duty as soldiers in the field to cast their ballots at the presidential election, and have them returned to state election officers.

In furtherance of these laws Secretary Stanton, on the 1st of October, issued the following regulations in respect to election tickets in the army: —

In order to secure a fair distribution of tickets among soldiers in the field who, by the laws of their respective States, are entitled to vote at the approaching elections, the following rules and regulations are prescribed: —

First. One agent for each army corps may be designated by the state executive or by the state committee of each political party, who, on presenting the credentials from the state executive, or from the chairman of said committee, shall receive from this department a pass to the headquarters of the corps for which he is designated, with tickets which may be placed by him in the hands of such person or persons as he may select for distribution among officers and soldiers.

Second. One inspector of each political party for every brigade may in like manner be designated, who shall receive passes on application to the adjutant-general to be present on the day of the election to see that the elections are fairly conducted.

Third. No political speeches, harangues, or canvassing among the troops will be permitted.

Fourth. Commanding officers are enjoined to take such measures as may be essential to secure freedom and fairness in the elections, and that they may be conducted with due regard to good order and military discipline.

Fifth. Any officer or private who may wantonly destroy tickets, or prevent their proper distribution among legal vot-

ers, interfere with the freedom of the elections, or make any false or fraudulent returns, shall be deemed guilty of an offense against good order and military discipline, and be punished by summary dismissal or court martial.

Every legal voter, therefore, from the States referred to was given a fair opportunity to vote either for Mr. Lincoln or General McClellan. Agents of each party were admitted to corps headquarters, where they could place tickets in the hands of persons of their respective parties for distribution. Each political party was represented in conducting the elections, and commanding officers were required to secure freedom of choice to every soldier.

The precautions taken by Stanton prevented any serious disorder on election day at New York or elsewhere. The result was an overwhelming Union victory, which was accepted as an expression of the unconquerable determination of the Union masses that the war should cease only with the end of the rebellion and the restoration of national authority throughout the land.

Mr. Lincoln received the electoral votes of all the States voting except New Jersey, Delaware, and Kentucky. These cast their votes for General McClellan.

The Union majorities in Congress were so increased that a little more than a year later each house had the two thirds majority which events in the mean time had rendered necessary. In his annual report of December, 1865, Secretary Stanton made the following reference to the presidential election of 1864: —

The result of the election of 1864 exerted an important influence upon the war. Intercepted letters and dispatches

between the rebel leaders showed that their hopes of success rested greatly upon the presidential election. If the Union party prevailed, the prosecution of the war until the national authority should be restored appeared inevitable, and the rebel cause desperate. Even on the battlefield the influence of the election was felt. The overwhelming voice of the people at the presidential election encouraged the heroic daring of our own troops, and dismayed those who were fighting in the rebel cause.

Although the Northern enemies of the Union cause had manipulated the convention of the Democratic party, and declared the war a failure, they paid the tribute which vice is said to pay to virtue, — of professing devotion to the Union, while lending aid and comfort to the rebellion. They knew that the great masses of the Democratic party could not be held to its nominations unless, while voting for them, they could also reaffirm their devotion to the Union. To afford this opportunity to the voters, General McClellan was allowed to say in his letter of acceptance that the Union must be preserved. To satisfy the peace men, he said that if the war had been conducted for the preservation of the Union, reconciliation would have been easy; and that to restore the Union, the spirit of conciliation and compromise must prevail. By this device Democratic voters were enabled to vote for a candidate who declared himself opposed to disunion, and who had been chosen by a convention dominated by the leaders of the anti-war faction. He was for the war, and also for a compromise.

In his annual message Mr. Lincoln thus referred to the result of the election: —

Not only all those who supported the Union ticket (so-called), but a great majority of the opposing party also, may be fairly claimed to entertain and to be actuated by the same purpose. It is an unanswerable argument to this effect that no candidate for any office whatever, high or low, has ventured to seek votes on the avowal that he is for giving up the Union. There has been much impugning of motives, and much heated controversy as to the proper means and best mode of advancing the Union cause; but in the distinct issue of Union or no Union, the politicians have shown their instinctive knowledge that there is no diversity among the people. In affording the people a fair opportunity of showing to one another, and to the world, this firmness and unanimity of purpose, the election has been of vast value to the national cause.

This view was both charitable and wise. It was a considerable exercise of charity to recognize the unionism of those who supported a presidential candidate whose nomination had been made unanimous upon the motion of C. L. Vallandigham, in a convention which opposed the continuance of the war against the rebellion. But it is doubtless true that the great majority of McClellan's votes would have been lost to him if he had not professed a dissent from portions of the platform of his party. It was wise in Mr. Lincoln to emphasize this fact, and to show that the Northern abettors of rebellion had found it necessary to masquerade as the supporters of a Union candidate in order to secure for the party they were engineering a respectable minority of the votes of the North.

CHAPTER LXXXIII

The Last Year of the War. — Sherman's March to the Sea. — Grant's Campaign against Lee's Army. — Early's Raid on Washington. — Sheridan's Brilliant Operations in the Shenandoah Valley. — The Spring Campaign. — The Surrender of Lee's Army.

THE military operations of 1864 in the West embraced Sherman's campaign against Atlanta and his famous march "from Atlanta to the sea," culminating with his "Christmas gift" of Savannah to the President; Thomas's operations in Tennessee, — including Schofield's hard-fought battle of Franklin, — and the utter rout of Hood's army by Thomas after long waiting, deemed necessary by him, but which had led General Grant at one time to contemplate relieving him from command.

In the East Grant's fierce attacks upon Lee's army were met by stubborn resistance, but the government and the people, inspired by Grant's courage, tenacity, and composure, accepted with absolute confidence his assurance: "I will fight it out on this line, if it takes all summer." Fresh calls for troops constantly reinforced the army, in numbers far greater than the losses sustained.

The rebel raid into Maryland under the lead of General Early, in July, created alarm for the safety of Washington. Grant states in his "Memoirs" that

General Hunter, in command of the forces in the Shenandoah Valley, had been compelled to retire before Early for the want of ammunition on the 18th of June. He had been obliged to take a roundabout way through West Virginia, up the Ohio River, and thence by the Baltimore and Ohio Railroad to Harper's Ferry. Says General Grant: —

A long time was consumed in making this movement. Meantime the valley was left open to Early's troops and others in that quarter, and Washington, also, was uncovered. Early took advantage of this condition of affairs and moved on Washington.

In the absence of Hunter, General Lew Wallace, with headquarters at Baltimore, commanded the department in which the Shenandoah lay. His surplus of troops with which to move against the enemy was small, and most of these were new and consequently very much inferior to our veterans or the veterans which Early had with him. But the situation of Washington was precarious, and Wallace moved with commendable promptitude to meet the enemy at the Monocacy. He could hardly have expected to defeat and hurt him badly, but he hoped to be able to cripple and delay him until Washington could be put in a state of preparation for his reception. I had previously ordered General Meade to send a division to Baltimore for the purpose of adding to the defenses of Washington, and he had sent Ricketts's division of the 6th corps (Wright's), which arrived in Baltimore on the 8th of July. Finding that Wallace had gone to the front with his men, Ricketts immediately took the cars and followed him to the Monocacy with his entire division. They met the enemy, and, as might have been expected, were defeated, but they succeeded in stopping him for the day on which the battle took place. The next morning Early started

on his march for the capital of the nation, arriving before it on the 11th. Learning of the gravity of the situation, I had directed Meade to also order Wright, with the rest of his corps, directly to Washington for the relief of that place, and the latter reached there the very day that Early arrived before it. The 19th corps, which had been stationed in Louisiana, having been ordered up to reinforce the armies about Richmond, had about this time reached Fortress Monroe, where they were to join us. I diverted them from that point to Washington, which place they reached almost simultaneously with Wright on the 11th. The 19th corps was commanded by General Emory.

Early made his reconnoissance with a view of attacking on the following morning, the 12th. But the next morning he found our intrenchments, which were very strong, fully manned. He at once commenced his retreat, Wright following. There is no telling how much this result was contributed to by General Wallace's leading what might well be considered a forlorn hope. If Early had been but one day earlier, he might have entered the capital before the arrival of the reinforcements I sent. Whether the delay caused by a battle amounted to a day or not, General Wallace contributed on this occasion, by the defeat of the troops under him, a greater benefit to the cause than often falls to the lot of a commander of an equal force to render by means of a victory.

It will be observed that, although Washington had been left uncovered by General Hunter on the 18th of June, it was not until the 8th of July that any addition was made to its defenses. It was not stated how long a time elapsed between General Grant's order to General Meade for this purpose and its execution by the latter. General Grant tells us that the situation

was so much more serious than he supposed that he ordered the remainder of Wright's division to the relief of the capital. The arrival of the 19th corps from the Gulf appears to have been providential rather than provident. It seems probable that the national capital would have been occupied by the rebel force of Early, if only for a few hours, had it not been for the heroic action of General Wallace in giving battle to the enemy with certain defeat staring him in the face, in order to postpone the attack upon the capital until the arrival of the hoped-for reinforcements.

This is mentioned as justifying Mr. Stanton for the anxiety sometimes manifested by him, — and criticised by General Grant in his "Memoirs," — lest the safety of the national capital might not always be assured by offensive movements against the army guarding the Confederate capital. It is possible that General Grant did not realize the serious consequences that might have resulted from the rebel occupation of Washington for however brief a time. These consequences would almost certainly have embraced the recognition of the Southern Confederacy by France and England, both of which governments were understood to be extremely desirous of even a slight pretext for such action.

In September General Grant placed General Sheridan in command in the Shenandoah Valley, with instructions to prevent the further use of that region as a source of supplies for the enemy or an easy approach to Washington. In thirty days these objects had been accomplished in the most thorough manner, after hard fighting. It was in recognition of brilliant services in

this field of operations that General Sheridan received his promotion as a major-general to fill the vacancy occasioned by the resignation of General McClellan on the 8th of November.

The spring campaign, which ended the war, was of short duration. Sherman supplemented his march to the sea by a movement, which met with slight resistance, through the Carolinas in February and March. General Grant was anxious lest Lee should escape him and join the army of Johnston to give battle to Sherman. His anxiety was not as to the military result of such a movement, but because he was very desirous that the Army of the Potomac should defeat and capture Lee's army without the coöperation of the army under Sherman. He thought this would be an equal division of the honors of the war between the soldiers of the East and of the West, and that it would prevent any future disputes between these two sections as to their relative importance in the suppression of the rebellion.[1]

General Sherman passed through Columbia, Charleston, and Fayetteville, reaching Goldsboro on the 23d of March. There he was to remain some time for supplies before he could continue his march. The 18th of April had been fixed for his movement northward from Goldsboro. Long before that (April 2) Richmond had fallen; and Lee's army, foiled in desperate efforts to escape, had been defeated in hotly contested battles, and on the 9th had surrendered to General Grant at Appomattox.

[1] Grant's *Memoirs*, vol. ii. p. 460.

The story of these great events is best told in the direct, simple, and yet dramatic narrative of the illustrious commander who had thus brought the war to a close a little more than a year after being given full command.

CHAPTER LXXXIV

Flight of Jefferson Davis. — The Assassination of President Lincoln. — Accession of Andrew Johnson to the Presidency.

THE surrender of Lee was accepted by all the world as the deathblow to the Southern Confederacy, although it left the Confederate army under General Johnston, and other Confederate forces, still in the field.

Upon the fall of Richmond, April 2, Jefferson Davis with his Cabinet had fled to Danville, Virginia, taking with them the rebel archives. That place was the seat of government until official information reached there, April 12, of Lee's surrender. Upon this the fugitive government moved on to Goldsboro, North Carolina. Upon its arrival there, the military situation had become so hopeless that, when General Johnston and General Beauregard were summoned for a conference with the rebel chief, they told him that the war could no longer go on, and in this all the Cabinet concurred, except Judah P. Benjamin, his Secretary of State.

No longer able to command, Davis reluctantly consented to the initiation by General Johnston of negotiations for peace, and himself dictated a letter on the 13th of April, which that officer signed and sent to General Sherman, asking for a conference.

The narrative of these events must give place to the

brief record of a story so sad that in its presence all other sorrows seemed light, — a tragedy which overtopped all other horrors of the war.

On the 14th of April, while the hearts of all the patriotic people throughout the land were rejoicing in the triumph of the Union cause, and while the nation's stage was being cleared of the drama of the rebellion, the bullet of an assassin pierced the brain of Abraham Lincoln, and in a few hours the hand that had written the sublime words of the inaugural of 1861, the Emancipation Proclamation, and the address at Gettysburg, was pulseless, and the great heart that had prompted them had ceased to beat.

The world was appalled. Grief and rage contended for the mastery in the minds of the people. Amid the sobs of the nation the remains of the noble dead — the gentlest and most Christlike mortal that ever wielded power in all the tide of time — were borne to his Western home.

Mr. Lincoln died shortly after seven o'clock on the morning of the 15th of April, and at eleven o'clock of that day the oath of office was administered by Chief Justice Chase to Vice-President Johnson, upon whom the powers and duties of the presidential office then devolved under the Constitution.

CHAPTER LXXXV

Jefferson Davis sues for Peace. — His Secretary of War conducts Negotiations with General Sherman, and presents Propositions approved by Davis. — Sherman's Substitute concedes more than was asked. — Terms agreed on Subject to Formal Approval of President Johnson and Jefferson Davis. — Sherman's Announcement to the Army.

THE letter of General Johnston to General Sherman, dictated by Jefferson Davis, was received by General Sherman at Raleigh, N. C., on the 14th of April. It was as follows : —

GENERAL, — The results of the recent campaign in Virginia have changed the relative relations of the belligerents. I am, therefore, induced to address you in this form the inquiry, whether, in order to stop the further effusion of blood and devastation of property, you are willing to make a temporary suspension of active operations, and to communicate to Lieutenant-General Grant, commanding the armies of the United States, the request that he will take like action in regard to other armies; the object being to permit the civil authorities to enter into the needful arrangements to terminate the existing war.

The following is the answer of General Sherman : —

GENERAL, — I have this moment received your communication of this date. I am fully empowered to arrange with you any terms for the suspension of further hostilities as between the armies commanded by you and those commanded by

myself, and will be willing to confer with you to that end. I will limit the advance of my main column to-morrow to Morrisville and the cavalry to the university, and expect that you will also maintain the present position of your forces until each has notice of a failure to agree. That a basis of action may be had, I undertake to abide by the same terms and conditions as were made by Generals Grant and Lee at Appomattox Court House on the 9th instant, relative to our two armies; and, furthermore, to obtain from General Grant an order to suspend the movement of any troops from the direction of Virginia. General Stoneman is under my command, and my order will suspend any devastation or destruction contemplated by him. I will add that I really desire to save the people of North Carolina the damage they would sustain by the march of this army through the central or western parts of the State.

On the following day General Sherman addressed a letter to the authorities at Washington, which commenced as follows: —

General U. S. Grant and Secretary of War, — I send copies of a correspondence begun with General Johnston which, I think, will be followed by terms of capitulation. I will accept the same terms as General Grant gave General Lee, and be careful not to complicate any points of civil policy.

On the 16th a meeting between the two generals was arranged for the day following.

If General Sherman had confined himself at his meetings with General Johnston to the purely military business described in his letter, and if, as therein proposed, he had made the terms of Lee's surrender to Grant the basis of the surrender of Johnston, he would

have avoided the unpleasant consequences of what he freely admitted was a great mistake. He allowed himself, however, to "complicate points of civil policy," which he had assured Grant and Stanton he would not do.

It will be observed that Jefferson Davis's letter, signed by General Johnston, asked for an armistice pending negotiations between the civil authorities of the United States and of the Confederacy. But the existence of the Southern Confederacy as a civil power with which negotiations could take place had from the very commencement, as all men knew, been treated by every department of the federal government as totally inadmissible. General Lee had made an attempt early in March to draw General Grant into a similar trap, by requesting a meeting between them for the purpose of considering terms of peace. Instead of complying with the request, General Grant forwarded it to the War Department for instructions. In reply Mr. Lincoln directed the Secretary of War to say to General Grant that he must not decide, discuss, or confer upon any political question. General Grant had refused on the instant to consider General Lee's request to discuss with him the terms of peace upon which the war should be terminated. The instructions sent him by the President on the subject merely confirmed him in the action he had already taken. Replying to these instructions, he wrote to Secretary Stanton March 3:—

It was because I had no right to meet General Lee on the subject proposed by him that I referred the matter for instruction.

In the narrative which follows, it will be seen that General Sherman pursued a different course. He undertook not only to share the great responsibility of the civil power, but, in advance and alone, to mark out an agreement with the enemy as to the manner in which he thought the civil power should act. It will also appear that he sought to bring pressure to bear upon the President to cause him to adhere strictly to the terms he had agreed on with Johnston. The President himself could not have guaranteed such terms without usurping the powers vested by the Constitution exclusively in Congress. Finally he issued a special order to the army, in which he treated the presidential approval as a mere formality which would surely follow, and in which he expressed the belief that the army had but to wait a few days before returning to their homes.

The terms were immediately disapproved by the President and every member of his Cabinet, and by General Grant. The reasons for this disapproval were stated by Secretary Stanton in a dispatch to General John A. Dix, commanding in the Department of New York, and by him furnished to the press. This was deemed an imperative necessity in order to allay public feeling in the North and possible disturbance in the army, which might have followed the unexplained refusal of the President to allow peace to be established upon terms which seemed good to General Sherman. The general allowed himself to become greatly inflamed towards Secretary Stanton on this account, and made many exhibitions of this feeling. It occupies a large

space in his "Memoirs." For these reasons it is proper that the biography of Mr. Stanton should contain the documentary history of the matter.

The fugitive government of the Confederacy was at the time referred to temporarily located at Greensboro, North Carolina. General Johnston's army was between that place and Hillsboro. The place arranged for the meeting of the two generals was near Durham Station, twenty-six miles from Raleigh, and the time was April 17.

General Johnston was informed by General Sherman that he could surrender upon the same terms given to General Lee by General Grant. General Johnston, with the purpose clearly in mind of bringing Jefferson Davis into the negotiations, and probably acting under the latter's instructions, made a suggestion that it would be very desirable if the terms of surrender could be made to include the remaining armies of the Confederacy, including the army west of the Mississippi. General Sherman asked him if he was empowered to surrender all the Confederate forces. He replied he was not at that time, but thought he could obtain the necessary authority during the night. General Sherman did not demur to the proposition, although it was manifest that General Johnston sought the adjournment expressly for the purpose of consulting with Jefferson Davis, who alone could even claim the right to confer such authority.

On the next day, at the appointed hour, they met again. General Johnston was accompanied by John C. Breckenridge and John H. Reagan, — the Confederate Secretary of War and Postmaster-General. He did not

bring them into the presence of General Sherman, but requested that they might be invited in. Here General Sherman attempted to draw the distinction between the civil and military authorities, and at first declined to see either of the civil officers named, because, he said, he could deal only with military men. Upon General Johnston's suggestion to him that Breckenridge was a major-general in the army as well as a cabinet officer, he consented to have him join them, but declined to see Reagan. The latter, however, made his presence in the vicinity felt by communicating, through Breckenridge, a plan for peace. It was as follows: —

As the avowed motive of the government of the United States for the prosecution of the existing war with the Confederate States is to secure a reunion of all the States under one common government, and as wisdom and sound policy alike require that a common government should rest on the consent, and be supported by the affection, of all the people who compose it, now in order to ascertain whether it be practicable to put an end to the existing war and to the consequent destruction of life and property, having in view the correspondence and conversation which has recently taken place between Major-General W. T. Sherman and myself, I propose the following points as a basis of pacification: —

1st. The disbanding of the military forces of the Confederacy; and —

2d. The recognition of the Constitution and authority of the government of the United States, on the following conditions: —

3d. The preservation and continuance of the existing state governments.

4th. The preservation to the people of all the political rights and rights of person and property secured to them by

the Constitution of the United States and of their several States.

5th. Freedom from future prosecution or penalties for their participation in the present war.

6th. Agreement to a general suspension of hostilities pending these negotiations.

There was little of a military character in this beyond the joint exercise of military power in declaring a truce. All the rest was matter for legislation. General Sherman did not object to it on that ground. The only objection stated by him is in these words: —

While we were in consultation, a messenger came with a parcel of papers, which General Johnston said were from Mr. Reagan, Postmaster-General. He and Mr. Breckenridge looked over them, and after some side conversation he handed one of the papers to me. It was in Reagan's handwriting, and began with a long preamble and terms so general and verbose that I said they were inadmissible.[1]

And yet for this document, which he objected to only on account of its length and lack of details, he substituted one differing substantially only in being much longer. It is here given: —

Memorandum or basis of agreement made this 18*th day of April,* A. D. 1865, *near Durham's Station, in the State of North Carolina, by and between General Joseph E. Johnston, commanding the Confederate army, and Major-General William T. Sherman, commanding the army of the United States in North Carolina, both present:* —

First: The contending armies now in the field to maintain the *status quo* until notice is given by the commanding general of any one to its opponent, and reasonable time — say forty-eight hours — allowed.

[1] See Sherman's *Memoirs*, page 353.

Second: The Confederate armies now in existence to be disbanded and conducted to their several state capitals, there to deposit their arms and public property in the state arsenal; and each officer and man to execute and file an agreement to cease from acts of war and to abide the action of the state and federal authorities. The number of arms and munitions of war to be reported to the chief of ordinance at Washington city, subject to the future action of the Congress of the United States, and in the mean time to be used solely to maintain peace and order within the borders of the States respectively.

Third: The recognition by the Executive of the United States of the several state governments, on their officers and legislatures taking the oaths prescribed by the Constitution of the United States, and where conflicting state governments have resulted from the war, the legitimacy of all shall be submitted to the Supreme Court of the United States.

Fourth: The reëstablishment of all the federal courts in the several States, with powers as defined by the Constitution and laws of Congress.

Fifth: The people and inhabitants of all the States to be guaranteed, so far as the Executive can, their political rights and franchises, as well as their rights of person and property, as defined by the Constitution of the United States and of the State respectively.

Sixth: The executive authority of the government of the United States not to disturb any of the people by reason of the late war, as long as they live in peace and quiet, abstain from acts of armed hostility, and obey the laws in existence at the place of their residence.

Seventh: In general terms, — the war to cease, — a general amnesty so far as the Executive of the United States can command, on condition of the disbandment of the Confederate armies, the distribution of the arms, and the resumption of

peaceful pursuits by the officers and men hitherto composing said armies.

Not being fully empowered by our respective principals to fulfill these terms, we individually and officially pledge ourselves to promptly obtain the necessary authority and to carry out the above programme.

This was, of course, at once agreed to and signed by General Sherman and General Johnston.

The following opinion of these terms was expressed by Jefferson Davis on the 23d of April, 1865, while he was waiting for the action of the government at Washington. The letter was among papers captured shortly afterwards: —

General Johnston had several interviews with Sherman, and agreed on a suspension of hostilities and the reference of terms of pacification. They are secret and may be rejected by the Yankee government. To us they are hard enough, though freed from wanton humiliation, and expressly recognizing the state governments, and the rights of person and property as secured by the constitutions of the United States and the several States.

General Breckenridge was a party to the last consultation and to the agreement. Judge Reagan went with him and approved the agreement, though not present at the conference.

General Sherman seemed to regard the terms as certain of approval. There seemed to be no secrecy about them, for he states that, immediately upon the agreement being signed, the Confederates mingled freely with the officers about him, and that the mutual rejoicing over the final termination of the war was very great.[1]

[1] Sherman's *Memoirs*, page 353.

That a general in the field should, without authority, have undertaken the vast responsibility of civil negotiations with the enemy, and of committing himself to any terms of peace to be submitted to the civil power, was certainly extraordinary. That he should concede terms which furloughed the Confederate army with their arms in their hands; which undertook instantaneously to give illegal Confederate state governments the full power of state governments within the United States; and which promised executive immunity to all who had been in rebellion, both as to their persons and property (necessarily including slaves, of which no exemption had been made), was unaccountable. If this had all been done privately between the two generals, and if secrecy had been maintained until their respective superiors had spoken, the proceeding would have been less dangerous; but instead of this there was a general rejoicing over an assumed finality, and on the day following the signing of the agreement, before its terms were known to the general government at Washington, General Sherman issued a special order to the army, which contained the following paragraph: —

> The general commanding announces to the army a suspension of hostilities, and an agreement with General Johnston and other high officials which, when formally ratified, will make peace from the Potomac to the Rio Grande.

As a great soldier and an ardent patriot, General Sherman had earned and enjoyed the confidence of the whole army, and especially of his immediate command. Herein lay the great danger of what he had done. It

would require powerful reasons to satisfy his army and the country that further hostilities were necessary in the face of the above order. It was an assurance from him that he had agreed to terms which, in his opinion, the government at Washington ought to approve.

CHAPTER LXXXVI

The Sherman-Johnston Terms continued. — Disapproved by the President and his Cabinet and General Grant. — Stanton's Nine Reasons. — Comments by Senators Sherman, Trumbull, Fessenden, and Collamer, and George Bancroft. — Sherman's Meeting with Secretary Stanton on the Reviewing-Stand at Washington.

Major Hitchcock of General Sherman's staff was immediately sent to Washington with the agreement. He also carried from General Sherman a letter to General Grant, another to whoever might be in command of the armies in Virginia, and a third to General Halleck.

The letter to General Grant was as follows: —

I inclose herewith a copy of an agreement made this day between General Joseph E. Johnston and myself, which, if approved by the President of the United States, will produce peace from the Potomac to the Rio Grande.

Mr. Breckenridge was present in his capacity as major-general, and satisfied me of the ability of General Johnston to carry out to their full extent the terms of this agreement, and if you will get the President simply to indorse this copy, and commission me to carry out the terms, I will follow them to the conclusion.

You will observe that it is an absolute submission of the enemy to the lawful authority of the United States, and disperses his armies absolutely, and the point to which I attach most importance is that the dispersion and disbandment of

these armies is done in such a manner as to prevent their breaking up into guerrilla bands.

On the other hand, we can retain just as much of an army as we please. I agreed to the mode and manner of the surrender of arms set forth, as it gives the States the means of repressing guerrillas, which we could not expect them to do if we stripped them of all arms.

Both General Johnston and Breckenridge admitted that slavery was dead, and I could not insist on embracing it in such a paper because it can be made with the States in detail. I know that all the men of substance, South, sincerely want peace, and I do not believe they will resort to war again during this century. I have no doubt that they will in the future be perfectly subordinate to the laws of the United States.

To the general in command of the armies in Virginia he wrote: —

I have agreed with General Joseph E. Johnston for a temporary cessation of active hostilities to enable me to lay before our government at Washington the agreement made between us, with the full sanction of Mr. Davis and in the presence of Mr. Breckenridge, for the disbandment of all the armies of the Confederacy from here to the Rio Grande.

To General Halleck he wrote: —

Please give all orders necessary according to the views the Executive may take, and influence him if possible not to vary the terms at all, for I have considered everything, and believe that the Confederate armies once dispersed, we can adjust all else fairly and well.

From these it is evident that General Sherman had thrown his whole strength into the work of carrying through, without change, the plan he had agreed on,

and which, as the reader can see by comparison, was in all respects the very proposition of the Confederate chief and his Cabinet, brought from them by their associate, Mr. Reagan, with the added, unheard-of, and unasked-for concession of the retention by the rebels of their arms, to be deposited by them in their state arsenals.

General Sherman's special messenger arrived at Washington on the evening of April 21, and at once delivered his dispatches to General Grant. Immediately upon reading them, the latter addressed the following letter to Secretary Stanton: —

SIR, — I have received and just completed reading the dispatches brought by special messenger from General Sherman. They are of so much importance that I think immediate action should be taken on them, and that it should be done by the President in council with his whole Cabinet.

I would respectfully suggest whether the President should not be notified, and all his Cabinet, and the meeting take place to-night.

The cabinet meeting so urgently recommended by General Grant for that night was called and held accordingly. Following is General Grant's report of what occurred at this meeting, contained in a letter from him to General Sherman, written immediately after its adjournment: —

GENERAL, — The basis of agreement entered into between yourself and General Joseph E. Johnston for the disbandment of the Southern army and the extension of the authority of the general government over all the territory belonging to it, sent for the approval of the President, is received.

I read it carefully myself before submitting it to the President and Secretary of War, and felt satisfied that it could not possibly be approved. My reasons for these views I will give you at another time in a more extended letter.

Your agreement touches upon questions of such vital importance that as soon as read I addressed a note to the Secretary of War, notifying him of their receipt and the importance of immediate action by the President, and suggested in view of their importance that the entire Cabinet be called together, that all might give an expression of their opinions on the matter. The result was a disapproval by the President of the basis laid down, a disapproval of the negotiations altogether, and directions to me to notify you of this decision. I cannot do so better than by sending you the inclosed copy of a dispatch (penned by the late President, though signed by the Secretary of War) in answer to me on sending a letter received from General Lee proposing to meet me for the purpose of submitting the question of peace to a convention of officers.

Please notify General Johnston immediately on receipt of this of the termination of the truce, and resume hostilities against his army at the earliest moment you can, acting in good faith.

On the same night General Grant started for General Sherman's headquarters in North Carolina to execute the following order of the President, signed by Secretary Stanton: —

LIEUTENANT-GENERAL GRANT.

General, — The memoranda or basis agreed upon between Sherman and General Johnston having been submitted to the President, they are disapproved. You will give notice of the disapproval to General Sherman and direct him to resume hostilities at the earliest moment.

Head-Quarters Armies of the United States,
Washington D.C. Apl. 21st 1865

Hon. E. M. Stanton,
Sec. of War,

Sir:

I have rec'd, and just completed reading the dispatches brought by Special Messenger from Gen. Sherman. They are of such importance that I think immediate action should be taken on them, and that it should be done by the President, in Council with his whole Cabinet.

I would respectfully suggest whether the President should not be notified, and all

his Cabinet, and the meeting
take place to-night.

Very respectfully
Your obt. svt.
U. S. Grant
Lt. Gen.

The instructions given to you by the late President Abraham Lincoln on the 3d of March by my telegraph of that date, addressed to you, expresses substantially the views of President Andrew Johnson, and will be observed by General Sherman. A copy is herewith appended. The President desires that you proceed immediately to the headquarters of Major-General Sherman and direct operations against the enemy.

Upon General Grant's arrival at Sherman's headquarters, the latter notified the rebel general of the action of the government, and on the 26th Johnston surrendered his army on the terms which Grant had given Lee at Appomattox.

These records show that General Grant was the first to declare that General Sherman's terms were inadmissible; that he was prompt in sounding the alarm to Stanton; urgent for the immediate action of the President and the Cabinet; energetic in pushing forward the work of setting aside the agreement; and that he lost no time in starting for North Carolina. His opinion of the Sherman-Johnston agreement was his own. He so wrote to Sherman in the letter above quoted. "I read it carefully," he says, "before submitting it to the President and Secretary of War, and felt satisfied that it could not possibly be approved."

It cannot be said, therefore, that the action of General Sherman was objected to by civilians only. The first to disapprove what he had done was a soldier, his own superior officer and his warm personal friend.

On the next morning, April 22, Secretary Stanton sent the following dispatch to General John A. Dix at

New York city, by whom it was, in the usual manner, furnished to the press: —

Yesterday evening a bearer of dispatches arrived from General Sherman. An agreement for a suspension of hostilities and a memorandum of what is called a basis of peace had been entered into on the 18th instant by General Sherman with the rebel General Johnston, the rebel General Breckenridge being present at the conference. A cabinet meeting was held at eight o'clock in the evening, at which the action of General Sherman was disapproved by the President, by the Secretary of War, by General Grant, and by every member of the Cabinet. General Sherman was ordered to resume hostilities immediately, and he was directed that instructions given by the late President in the following telegram which was penned by Mr. Lincoln himself at the Capitol, on the night of the 3d of March, were approved by the President, Andrew Johnson, and were reiterated to govern the action of military commanders.

On the night of the 3d of March, while President Lincoln and his Cabinet were at the Capitol, a telegram from General Grant was brought to the Secretary of War, informing him that General Lee had requested an interview or conference, to make an arrangement for terms of peace. The letter of General Lee was published in the message of Davis to the rebel Congress. General Grant's telegram was submitted to Mr. Lincoln, who, after pondering a few minutes, took up his pen and wrote with his own hand the following reply, which he submitted to the Secretary of State and Secretary of War. It was then dated, addressed, and signed by the Secretary of War, and telegraphed to General Grant.

Lieutenant-General Grant, — The President directs me to say to you that he wishes you to have no conference with General Lee, unless it be for the capitulation of General

Lee's army, or on some minor and purely military matter. He instructs me to say that you are not to decide, discuss, or confer upon any political question. Such questions the President holds in his own hands, and will submit them to no military conferences or conventions. Meantime you are to press to the utmost your military advantages.

The orders of General Sherman to General Stoneman to withdraw from Salisbury and join him will probably open the way for Davis to escape to Mexico or Europe with his plunder, which is reported to be very large, including not only the plunder of Richmond banks, but previous accumulations. A dispatch received by this department from Richmond says:[1]

"It is stated here by respectable parties that the amount of specie taken South by Jeff Davis and his partisans is very large, including not only the plunder of the Richmond banks, but previous accumulations. They hope, it is said, to make terms with General Sherman or some other Southern Union commander, by which they will be permitted with their effects, including this gold plunder, to go to Mexico or Europe. Johnston's negotiations look to this end."

After the cabinet meeting last night, General Grant started for North Carolina, to direct operations against Johnston's army.

Accompanying this dispatch, and published as a part of it, were the Sherman-Johnston terms, and the following nine reasons, furnished by Secretary Stanton, why they had been disapproved: —

1. It was an exercise of authority not vested in General Sherman, and on its face shows that both he and Johnston knew that General Sherman had no authority to enter into any such agreement.

[1] This dispatch, dated April 22, was from General Halleck.

2. It was a practical acknowledgment of the rebel government.

3. It undertook to reëstablish the rebel state governments that had been overthrown at the sacrifice of many thousand loyal lives and an immense treasury, and placed the arms and munitions of war in the hands of rebels at their respective capitals, which might be used as soon as the armies of the United States were disbanded, and used to conquer and subdue the loyal States.

4. By the restoration of rebel authority in their respective States they would be enabled to reëstablish slavery.

5. It might furnish a ground of responsibility for the federal government to pay the rebel debts, and certainly subject the loyal citizens of rebel States to debts contracted by rebels in the State.

6. It would put in dispute the existence of loyal state governments, and the new State of West Virginia, which had been recognized by every department of the United States government.

7. It practically abolished the confiscation laws, and relieved the rebels of every degree, who had slaughtered our people, from all pains and penalties for their crimes.

8. It gave terms that had been deliberately, repeatedly, and solemnly rejected by President Lincoln, and better terms than the rebels had ever asked in their most prosperous condition.

9. It formed no basis of true and lasting peace, but relieved the rebels from the pressure of our victories, and left them in condition to renew their efforts to overthrow the United States government and subdue the loyal States whenever their strength was recruited and any opportunity was offered.

It had been the habit of Mr. Stanton thus to publish in an official form whatever he deemed the public

interests demanded. He realized on this occasion that the general's great name would make the disapproval of his plan disturbing, and perhaps dangerous to the peace of the country and the morale of the army, unless the people and the army could be made to clearly see how serious a mistake had been made by their popular idol of "the march to the sea." He knew how great would be the disappointment of the soldiers and of their friends to have a resumption of hostilities ordered from Washington, instead of the peace which was so soon to have restored the soldiers to their homes. It was to guard against the consequences of this that he placed before the country the unanswerable and invincible arguments contained in his nine reasons. To these he never added a word of further argument or explanation. They expressed both the law and the common sense of the case. The great soldier who had blundered must be shown to have blundered. There is nothing in Mr. Stanton's dispatch that was not deemed by him an imperative public necessity. He had been at all times the friend of General Sherman, rejoicing in his great successes.

General Sherman was exceedingly restive under the order setting aside the terms he had made. He wrote to Mr. Stanton April 25: —

Dear Sir, — I have been furnished a copy of your letter of April 21 to General Grant, signifying your disapproval of the terms on which General Johnston proposed to disarm and disperse the insurgents on condition of amnesty, etc. I admit my folly in embracing in a military convention any civil matters, but unfortunately such is the nature of our sit-

uation that they seem inextricably united, and I understood from you at Savannah that the financial state of the country demanded military success, and would warrant a little bending to policy. When I had my conference with General Johnston, I had the public examples before me of General Grant's terms to Lee's army, and General Weitzel's invitation to the Virginia legislature to assemble.

I still believe the government of the United States has made a mistake, but that is none of my business; mine is a different task, and I had flattered myself that by four years' patient, unremitting, and successful labor I deserved no reminder such as is contained in the last paragraph of your letter to General Grant. You may assure the President that I heed his suggestion.

He was still more incensed upon reading the reasons published by Mr. Stanton. In his "Memoirs" (page 353), published eleven years afterwards, and seven years after Mr. Stanton's death, he makes the following statement of his feelings on the occasion: —

The publication of this bulletin by authority was an outrage on me, for Mr. Stanton had failed to communicate to me in advance, as was his duty, the purpose of his administration to limit our negotiations to purely military matters; but, on the contrary, at Savannah he had authorized me to control all matters, civil and military,

By this bulletin he implied that I had previously been furnished with a copy of his dispatch of March 3 to General Grant, which was not so; and he gave warrant to the impression, which was sown broadcast, that I might be bribed by banker's gold to permit Davis to escape.[1] . . .

[1] There was nothing in Mr. Stanton's dispatch to justify this statement. He did express the fear that Sherman's withdrawal of Stoneman from Salisbury, North Carolina, would "open the way for Davis to

Success. and would warrant a little
bending to Policy. — When I had my
Conference with General Johnston I
had the public Examples before me,
of General Grants terms to Lees Army
and General Wirtsills invitation to
the Virginia Legislature to assumber.
I still believe the Govt. of the U. S. has
made a Mistake — but that is none of

my business: Mine is a different task, and I had flattered myself that by four years patient, unremitting, and successful labor I ~~needed~~ deserved no reminder such as is contained in the last paragraph of your letter to General Grant. You may assure the President that I heed his suggestion.

I am truly,

W. T. Sherman

Maj Genl

I regarded this bulletin of Mr. Stanton as a personal and official insult, which I afterward publicly resented.

As General Sherman, on the 15th of the same month, had assured Mr. Stanton voluntarily that he would limit his negotiations to purely military matters, and as he had written him on the 25th an admission of his "folly" in exceeding that limit, it is difficult to conceive why he thought it was Mr. Stanton's "duty" to communicate to him "the purpose of the administration" to place upon him the limit which he had already placed upon himself, and which the military character of his office clearly placed upon him.

It nowhere appears in his "Memoirs," nor in any record, that Mr. Stanton had authorized him at Savannah "to control all matters civil and military." He gives a

escape to Mexico or Europe with his plunder;" and he quoted Halleck's dispatch from Richmond, saying that the rebel chief and his friends hoped to "make terms with General Sherman or some other Southern Union commander" by which they might thus escape; but there was no word or syllable of his or Halleck's which could be distorted into an intimation or an innuendo that bribery was thought of as a possible element in the terms.

That General Sherman did not look with disfavor upon the idea of allowing Davis to escape is clearly shown by his own testimony. In his account of the negotiations with Johnston and Breckenridge (Sherman's *Memoirs*, page 351), he says, of conferences with his own general officers: —

"We discussed all the probabilities, among which was, whether, if Johnston made a point of it, I should assent to the escape from the country of Jefferson Davis and his fugitive Cabinet; and some one of my general officers, either —— or ——, insisted that, if asked for, we should even provide a vessel to carry them to Nassau from Charleston."

He further says: "I remember telling Breckenridge that he had better get away." (*Ibid.*, page 353.) "I may have also advised him that Mr. Davis too should get abroad as soon as possible." (*Ibid.*, page 354.)

very full account of Mr. Stanton's visit to him at Savannah in January, from which it appears that, at Mr. Stanton's request and with his approval, he prepared and published Special Field Orders No. 15, providing for the treatment of slaves within the Federal lines. He also appealed to Sherman as "a soldier and a patriot to hurry matters so as to bring the war to a close, urging financial troubles as a reason for his anxiety."[1]

There certainly was nothing in this claiming to confer authority upon General Sherman to make terms of peace with General Johnston, nor could Mr. Stanton have conferred such authority.

It was entirely immaterial whether General Sherman had knowledge of the instructions from President Lincoln to General Grant of March 3, forbidding any conference with General Lee on non-military questions. A copy of these instructions was incorporated in the order disapproving the Sherman-Johnston terms, as expressing the views of President Johnson on the same subject, and was made a part of that order. It was not assumed or intimated that General Sherman had seen them before. Neither in his letter to Stanton of April 25 in reply to that order, nor in his letter to Grant of the same date, did he take any exception to the use made of those instructions in the communications with him. His later complaints on the subject were wholly inconsistent with his admission of his "folly in embracing in a military convention any civil matters." Surely his lack of information as to what instructions had been given to General Grant was not

[1] *Memoirs*, pages 250–252.

a justification of this admitted folly. He knew that no such folly had been committed by Grant, who was his superior officer.

The foregoing embraces substantially all that General Sherman ever said in explanation of his part in this remarkable and unfortunate episode. He claimed to be justified by General Grant's liberal terms to General Lee at Appomattox; but Grant did not undertake to arrange terms of peace with the civil authorities of the Confederacy. He cited the fact that the Virginia legislature had been permitted to reassemble after General Lee's surrender; but President Lincoln merely authorized the individuals who composed it to be invited to come together in their private capacity and exercise their influence in the direction of submission to national authority. He admitted to General Grant that the terms with General Johnston "were not clear enough on the point well understood," — that the "negotiations did not apply to any parties outside the officers and men of the Confederate armies;" but this statement is not justified by the fifth and sixth articles of the agreement, which extended to "the people of all the States," and pledged the Executive of the government "not to disturb any of the people by reason of the late war," etc., etc. In the face of these stipulations, in his letter to General Grant of April 25 he pledged his "influence that rebels shall suffer all the punishment prescribed by law, as also the civil disabilities arising from their past acts." He agreed upon an entire plan of reconstruction subject to presidential approval, and, on the next day, before the plan could by any possi-

bility have reached Washington, he announced in an order to his army, which was immediately published in the press of the country, that he had agreed upon terms which, "when formally ratified," would send them to their homes. The rational inference was that their approval was regarded by him as a mere formality and a foregone conclusion. The least reflection would have taught him that their disapproval might create a dangerous discontent in the army and at the North. He embarrassed the government by lending his powerful name to a scheme which, though in form dependent on approval, might from the nature of the case extort unwilling acquiescence as a choice of evils. It did not disarm the enemy, nor dismantle the States which had formed the hostile Confederacy. It did not even provide in terms for the disappearance of the Confederate army. At the very best, the Confederate States were to survive the Confederate government, and each was for the time being to retain its quota of Confederate arms in its own state capital.

General Sherman found himself almost without defenders among the adherents of the government. His terms were disapproved by the Union masses, as they had been by General Grant, and by the President and his Cabinet. Perhaps no popular idol was ever before so discredited. His motives were not questioned, nor his great military services forgotten for a moment. He was regarded as wanting in judgment, and much too confiding towards a vanquished enemy. His sentimental conception of magnanimity towards a fallen foe seemed to impress him with a fanciful idea that they

had been humbled by defeat, and that they would be free from all guile in their relations to the government in the immediate future. The Union press was well-nigh unanimous in its condemnation of his negotiations. A volume could easily be compiled of their utterances. Following are extracts from private letters to Mr. Stanton at that time. The writers are among the most conservative of the prominent men of that period. Senator John Sherman wrote as follows, April 27, 1865:—

I am distressed beyond measure at the terms granted General Johnston by General S. They are inadmissible. There should now be literally no terms granted. We should not only brand the leading rebels with infamy, but the whole rebellion should wear the badge of the penitentiary, so that, for this generation at least, no man who has taken part in it would dare to justify or palliate it.

Yet with these views I feel that gross injustice has been done General Sherman, especially by the press. The most that can be said about him is that he granted the rebels too liberal terms. The same may be said, but to a less degree, of Mr. Lincoln and General Grant in their arrangement with Lee. General Sherman had not understood the political bearing of that agreement. It is his misfortune that he believes the promises of these men, and looks upon the whole contest in a simple military view. He thought the disbanding of their armies the end of the war, while we know that to arm them with the elective franchise and state organizations is to renew the war.

I feel so troubled at this matter following so closely upon the death of Mr. Lincoln that I was inclined to drop everything and go to Raleigh, but I promised to join the funeral cortége here, and on Saturday week have agreed to deliver a eulogy of Mr. Lincoln at Mansfield. This over, I will gladly

go to Washington, or anywhere else where I can render the least service. I do not wish General Sherman to be unjustly dealt with, and I know that you will not permit it, and especially I do not want him driven into fellowship with the Copperheads. His military services have been too valuable to the country to be stained by any such fellowship. If you can in your multiplied engagements drop me a line, pray do so. You can, if you choose, show this to the President, or indeed to any one.

The value of this letter lies largely in his testimony that he was sure Mr. Stanton would not allow his brother, the general, "to be unjustly dealt with." As Mr. Stanton's nine reasons for setting aside the Sherman-Johnston terms had then been in print in the newspapers five days, this was a distinct declaration by Senator Sherman that he did not consider the publication of them as doing the general any injustice.

Senator William P. Fessenden wrote to Mr. Stanton on the 28th of May, strongly condemning General Sherman's terms with Johnston as a "stupendous blunder."

George Bancroft wrote as follows from New York on the 11th of June: —

General Sherman passed through our city. His own labored defense proved to be a thorough justification of yourself. This was felt by all his friends. As far as I heard, and I had good opportunities for observing, he was perfectly silent on the subject of his convention and his consequent complaints. Nobody wished to hear a word from him on the subject. No political party rallied about him. To me he seemed pressed down by chagrin and disappointment. He had expected to have filled all mouths with his praise; and he found every one willing and wishing to recognize his mili-

[*Senator John Sherman to Mr. Stanton, April 27, 1865*]

I do not wish Gen. S. to be
unjustly dealt by & I know you
will not permit it - and espe-
-cially I do not wish him
drawn into any fellowship
with the Copperheads. His wide
-tary services have been too rel-
-uable to the country to be stain-
-ed by any such fellowship.
If you can in your multiplied
engagements drop me a line
pray do so - You may if you
choose show this to the President
or indeed to any one.

Very truly Yours
John Sherman

Hon E. M. Stanton.

tary merits; and no one, as far as I know, no single one, disposed to approve his political movement.

The result has been to place you on a firmer foundation than before his insubordination, and left your friends very little to do.

Senator Jacob Collamer, of Vermont, wrote June 14, from Woodstock, Vermont: —

General Sherman promulgated to his army and to the world his arrangement with Johnston. Indeed, the armistice could be no other way accounted for, and the army were gratified with expectation of immediate return home.

To reject that arrangement was clearly necessary, and to do it without stating any reasons for it would have been a very dangerous experiment both to the public and to the army. Indeed, many had serious apprehensions of its effect on the army even with the conclusive reasons which were given. Should not this view be presented in any and every true manifesto of the case?

The counsels of Mr. Collamer were given much weight at that time because of his force of character, wise moderation, and large experience. It will be observed that he not only justified the course of Mr. Stanton in publishing the "conclusive reasons" for disapproving the terms given to General Johnston by General Sherman, but maintained that the public safety demanded their publication.

More than a month before the date of Senator Collamer's letter, Mr. Stanton had himself privately given reasons for his action which were identical with those named in that letter. This he did in an interview with General O. O. Howard, who thus reported it to General Sherman on May 12: —

I saw the Secretary of War, who told me he sent for me in order to place me in charge of the Freedmen's Bureau. And after I had conversed with him about that for some little time, he inquired where you were, and talked with me quite at length respecting your terms of settlement with Johnston. I told him that you were incensed at the publication that appeared over his signature. He said in reply that you put the government entirely on the defensive by announcing in orders that the terms had been agreed upon which would give peace from the Potomac to the Rio Grande, etc. This order appeared in the morning papers, and on account of it, in order to show the people why the government broke the peace established, he deemed it proper to publish some of the reasons for disapproving the terms. He deprecated the spirit of the press, but said that he thought he himself had had to bear his share of newspaper abuse.

Senator Lyman Trumbull wrote as follows from Chicago on May 26: —

I have just read with indignation the inclosed telegraph to the West, and published in the "Tribune" of this morning. I hope for General Sherman that what is stated is not true; if it is and I were President, I would dismiss him from his command at once. As a private individual, General Sherman of course has the right to be discourteous, if such are his tastes, but at the head of his army, in the discharge of official duties, he has no right to exhibit his spleen towards those in authority.[1]

[1] The newspaper paragraph referred to in this letter was a dispatch from Washington containing the statement that General Sherman refused the proffered hand of Secretary Stanton at the grand review of May 23. This statement has been denied by two eyewitnesses on that occasion, — one of them the Secretary's son, Edward L. Stanton, and the other Charles A. Dana, then an Assistant Secretary of War. Both positively declared that Mr. Stanton did not proffer his hand.

While writing, allow me to express the hope that the report of your being about to leave the War Department is not true. The country has derived too much benefit from your efficient management of the department during the great rebellion to be willing to dispense with your services till the thing is finally closed up and the armies are disbanded.

CHAPTER LXXXVII

National Rejoicings tempered by the Death of President Lincoln. — Pursuit of the Assassins. — Death of Booth, their Leader. — Arrest, Trial, Conviction, and Execution of Sentences on the Others. — President Johnson overruled a Recommendation of Mercy for Mrs. Surratt.

THE surrender of all the rebel forces, the collapse of the Confederacy, the flight and capture of its chief, and the grand review of the victorious Union armies at the nation's capital before returning to the occupations of peace inspired a national exultation, manifestations of which would have been unlimited and unrestrained, but for the dark pall which hung over the land because of the violent death of President Lincoln. The absence of the great leader so loved of the people was deeply felt by every loyal heart, and the martial tones of victory and the rejoicings over a preserved Union were tempered by the minor key of mourning for the illustrious dead.

President Lincoln received his fatal wound in a private box at the National Theatre, during an evening performance, at about ten o'clock. His assassin was John Wilkes Booth, a son of the great tragedian, Junius Brutus Booth, and a brother of the equally renowned actor, Edwin Booth. He was the only member of his family who sympathized with the rebellion.

His brother Edwin had voted for Mr. Lincoln the preceding November. After committing the bloody deed, Booth shouted, "*Sic semper tyrannis*," and leapt from the box to the stage. One of his spurs caught in the flag with which the box was draped, and caused him to so miss his intended footing that in striking the stage he broke his leg. Notwithstanding this impediment, he reached and mounted a fleet horse, which awaited him near the alley entrance to the theatre, at the rear of the stage, and made his escape from the city across the eastern branch of the Potomac into Maryland. He was quickly pursued by detectives in the service of the War Department, but succeeded in eluding them for twelve days. At the end of that time, having been tracked through southern Maryland and across the Potomac and the Rappahannock, he was finally discovered, on the 26th of April, in a barn on a Virginia farm in which he had taken refuge. Refusing to surrender, the barn was fired to compel him to leave it. A young sergeant,[1] seeing that Booth had a gun in his hand, fired upon him without orders and inflicted a mortal wound. Booth was removed from the building, and died in a few hours. Harold, one of his accomplices, who had followed him in his flight from the city and soon overtaken him, was in the barn with him, and promptly surrendered to the officer in charge of the pursuing party. The body of Booth was brought back to Washington.

The civil and military authorities had meanwhile been energetic in their efforts to obtain evidence which

[1] Boston Corbett.

would discover all who were concerned in the crime. On the 20th of April Secretary Stanton made an order that "the investigation concerning the murder of President Lincoln and the attempt to murder the Secretary of State shall be conducted under the direction of Brigadier-General Joseph Holt, chief of the bureau of military justice."

It was speedily discovered that the assassination was the result of a conspiracy, and that there was cause for believing that the following persons were implicated therein with Booth, who was the leader: Mrs. Mary E. Surratt, and John H. Surratt, her son, David E. Harold, George A. Atzerodt, Louis Payne, Michael O'Laughlin, Edward Spangler, Samuel Arnold, and Samuel A. Mudd. These persons (with the exception of John H. Surratt, who had fled from the country) were speedily arrested.

On the 1st of May the President made an order for the trial of the prisoners by military commission, in which it was recited that the Attorney-General of the United States had given his opinion, "that the persons implicated in the murder of the late President Lincoln, and the attempted assassination of the Hon. William H. Seward, Secretary of State, and in an alleged conspiracy to assassinate other officers of the federal government at Washington city, and their aiders and abettors, were subject to the jurisdiction of, and lawfully triable before, a military commission."

On the 6th of May, by order of the President, a military commission was appointed, which assembled on the 9th of May. The trial commenced on the 13th,

and was concluded on the 29th of June. The persons arraigned and tried were David E. Harold, George A. Atzerodt, Louis Payne, Mary E. Surratt, Michael O'Laughlin, Edward Spangler, Samuel Arnold, and Samuel A. Mudd.

It was proven on the trial that the house of Mrs. Surratt in Washington had been the rendezvous of the conspirators while they prepared for the crime. Also that a tavern at Surrattsville, in the lower part of Maryland, which belonged to her, and was leased by one Lloyd, had been made a place for the concealment of a gun, a cartridge-box, and a field-glass, which were to be given, and were so given by Lloyd, to Booth and Harold on the night of their flight from Washington. The order for their delivery to Booth was given to Lloyd by Mrs. Surratt in person on the afternoon of that day, she having visited Surrattsville at that time and apparently for that purpose. Payne was arrested at her house on the second day after the assassination.

The prisoners were all convicted, and Harold, Payne, Atzerodt, and Mary E. Surratt were sentenced to death, O'Laughlin, Arnold, and Mudd to imprisonment at hard labor for life, and Spangler for six years.

The sentence was approved by Andrew Johnson on the 5th of July, and the death sentence was executed on the 7th, in obedience to his orders.

A portion of the commission had joined in a recommendation to the President, that in consideration of the age and sex of Mary E. Surratt, her death sentence might be commuted to imprisonment for life. It was charged that the judge advocate-general had with-

held this recommendation from the President, and, as the bureau over which he presided was under the War Department, Secretary Stanton was credited with having been a party to this. The charge was utterly false, both as to Judge Holt and Secretary Stanton, and was clearly shown to be so on the trial, two years later, of John H. Surratt.[1]

At the beginning of that trial Mr. Edwards Pierrepont, of New York, assistant counsel for the prosecution (afterwards Attorney-General), said: —

> It has likewise been circulated through all the public journals that after the former convictions, when an effort was made to go to the President for pardon, men active here at the seat of government prevented any attempt being made, or the President being even reached, for the purpose of seeing whether he would not exercise clemency; whereas the truth, and the truth of record which will be presented in this court, is that all this matter was brought before the President and presented to a full cabinet meeting, where it was thoroughly discussed; and after such discussion, condemnation and execution received not only the sanction of the President, but that of every member of his Cabinet.[2]

Mr. Richard Merrick, of counsel for the defense, referred to this in an argument to the jury, and remarked that the record of the military commission had not been introduced in evidence.[3]

[1] Surratt was arrested in a foreign land and brought home in 1867. He was indicted in a criminal court in the District of Columbia for participation in the assassination of Mr. Lincoln, and, after a trial which occupied two months, the jury failed to agree.

[2] *Trial of John H. Surratt*, vol. i. p. 27.

[3] *Ibid.*, vol. ii. p. 1207.

Mr. Pierrepont subsequently brought in the record and handed it to Mr. Merrick, after having made the following remarks: —

I have not come here for the purpose of proving that Mrs. Surratt was guilty, or that she was innocent; and I do not understand why that subject was lugged into this case in the mode that it has been; nor do I understand why the counsel denounced the military commission who tried her, and thus indirectly censured, in the severest manner, the President of the United States. The counsel certainly knew when they were talking about that tribunal, and when they were thus denouncing it, that President Johnson, President of the United States, when that record was presented to him, laid it before his Cabinet, and that every single member voted to confirm the sentence; and that the President, with his own hand, wrote his confirmation of it, and with his own hand signed the warrant. I hold in my hand the original record, and no other man, as it appears from that record, ordered it. No other one touched this paper; and when it was suggested by some of the members of the commission that in consequence of the age and the sex of Mrs. Surratt it might possibly be well to change her sentence to imprisonment for life, he signed the warrant for her death with the paper right before his eyes, — and there it is (handing the paper to Mr. Merrick). My friend can read it for himself.[1]

Mr. Pierrepont's statement above quoted was never denied by any one of Mr. Johnson's Cabinet of 1865, all of whom were then living, and all of whom were named as witnesses to the truth of the assertion. The proof is clear that the recommendation concerning Mrs. Surratt was presented to the President, considered by him, and overruled in the presence of his Cabinet.

[1] *Trial of John H. Surratt*, vol. ii. p. 1248.

The determination of President Johnson that Mrs. Surratt should be executed was further shown by the following facts from the record. On the very day of her execution, her counsel sued out a writ of habeas corpus before Judge Wylie, and it was duly served on General Hancock, who was the officer charged with her custody and execution. He took it to the President, who made the following indorsement upon it, addressed to General Hancock: —

I, Andrew Johnson, President of the United States, do hereby declare that the writ of habeas corpus has been heretofore suspended in such cases as this; and I do especially suspend this writ, and direct that you proceed to execute the order heretofore given you upon the judgment of the military commission; and you will give this order in return to this writ.[1]

[1] McPherson's *History of Reconstruction*, page 260.

CHAPTER LXXXVIII

Jefferson Davis. — The Causes of his Detention. — His Indictment in Virginia on the Charge of Treason. — His Trial prevented by Continued Military Rule. — His Release.

Jefferson Davis was arrested on the 10th of May, 1865, and by order of the War Department was confined in Fortress Monroe to await such action as might be taken by the proper authorities of the United States government. He was indicted for the crime of high treason by the Grand Jury of the District of Columbia. He was "also charged with the crime of inciting the assassination of Abraham Lincoln, and with the murder of Union prisoners of war by starvation and other barbarous and cruel treatment towards them." So states a letter from Secretary Stanton to the President in January, 1866, transmitted to the Senate. In the same letter the Secretary said: —

The President deemed it expedient that Jefferson Davis should first be put upon his trial before a competent court and jury for the crime of treason. He was advised by the law officers of the government that the most proper place for such a trial was the State of Virginia. The State is within the federal judicial circuit assigned to the Chief Justice of the Supreme Court, who has held no court there since the apprehension of Davis, and who declines for an indefinite period to hold any court there.

The matters above stated are, so far as I am informed, the

reason for holding Jefferson Davis in confinement, and why he has not been put upon his trial.

Chief Justice Chase's reason for declining to hold the circuit court in his circuit, which embraced Virginia, had been stated by him in a letter to the President of the 12th of October, 1865. It was in response to a letter from the President of the 2d of that month as to whether a term of the circuit court would be held during the autumn or early winter of that year. He said: —

> I so much doubt the propriety of holding the circuit courts of the United States in States which have been declared by the Executive and Judicial Departments of the national government to be in rebellion and therefore subject to mere martial law before the complete restoration of their broken relations with the Union, and the supersedure of the military by the civil administration, that I am unwilling to hold such courts in such States within my circuit, which includes Virginia, until Congress shall have had an opportunity to consider and act on the whole subject. A civil court in a district under mere martial law can only act by the sanction and under the supervision of the military power, and I cannot think it becomes the justices of the Supreme Court to exercise jurisdiction under such conditions.

The Chief Justice further said that Justice Wayne, whose whole circuit was in the rebel States, concurred with him, and also, which seemed conclusive, that "the Supreme Court has hitherto declined to consider cases brought before it by appeal or writ of error from circuit or district courts in the rebellious portions of the country."

In May, 1866, the Grand Jury, sitting in Norfolk,

Virginia, indicted Mr. Davis for treason. On the 22d of the same month Congress passed an act providing for a term of the circuit court, which should be held at Richmond, and also authorizing the transfer to that place of all the records then at Norfolk. On the 5th of June the court met at Richmond. Counsel for Mr. Davis appeared and asked for a speedy trial of their client. On the following day the Assistant District Attorney, having consulted with his principal, who was absent, stated that Mr. Davis was not in the custody of the court, but was a state prisoner at Fortress Monroe, under an order of the President, signed by the Secretary of War; and that the Attorney-General, who would be expected to try so important a case, could not be present at that term because of other pressing engagements. He moved the court for an adjournment until the first Monday of October following. The court granted a motion to adjourn until the first Tuesday in October.

Bail was refused on the ground that military jurisdiction was still exercised and martial law enforced at that time in Virginia. The court said: —

> The civil authorities, state and federal, have been required or permitted to resume partially their respective functions, but the President, as commander-in-chief, still controls their action so far as he thinks such control necessary to pacification and restoration. In holding the district and circuit courts of Virginia I have uniformly recognized this condition.

On the 20th of August, 1866, the writ of habeas corpus was restored throughout the Union by a proclamation of the President. Mr. Davis made no attempt to

avail himself of this; but early in October following, as the time drew near to which the United States circuit court in Virginia had been adjourned, Attorney-General Stanbery proposed that he be released from military custody and transferred to the custody of the United States marshal in Virginia. This proposition, being under consideration at a meeting of the Cabinet October 5, Mr. Stanton gave his opinion in writing, a copy of which, over his signature, appears in his papers. It is as follows: —

October 5, 1866.

In Cabinet.

In the matter of Jefferson Davis.

I. I advise against the Attorney-General's proposition to release Jefferson Davis from his present custody and turn him over to the United States marshal for the district of Virginia; because the Attorney-General states that the United States District Attorney of Virginia is of opinion that the existing indictment is not good and valid in law, and that, by reason of the failure of the supreme judges to assign the circuits, a court competent to try Davis will not be held in Virginia this fall, so that whatever may be the purpose of turning him over to the marshal at this time, it is not for the purpose of a prompt and speedy trial, nor does there appear to have been any preparation made for this trial by the law officers of the government.

II. The case is one which deeply concerns the national justice, and ought to receive the attention and be under the control of the highest law officer of the government, who should be responsible for the form of the indictment, the preparation, and the proper conduct of the case in all its stages, and have ample time for a preparation, with authority to employ any assistant counsel he desires. I therefore advise

that, for his safe-keeping, Jefferson Davis be restrained in the same custody where he has been held since his capture, and where he has the society of his family and personal communication with his counsel, until the Attorney-General reports that a valid indictment against Mr. Davis has been prepared by the law officer of the government, due preparation for trial made, and the obstacles occasioned by the rebellion of Jefferson Davis, to holding courts and procuring a fair trial in Virginia, have been removed; and that the Attorney-General is prepared and ready to proceed promptly with his trial before a competent tribunal, where, in his opinion, a trial may be had that will be fair to the government as well as to the prisoner.

The recommendation of the Attorney-General did not prevail, and Mr. Davis continued in military custody until the 13th of May following. He was then taken from Fortress Monroe to Richmond and delivered to the civil authorities. He was admitted to bail in the sum of one hundred thousand dollars, Horace Greeley being one of his bondsmen.

He never was tried. At the term of the United States circuit court held at Richmond November, 1868, a *nolle prosequi* was entered, and he was discharged from custody.

After his release Mr. Davis refrained from an application for the removal of the disabilities imposed upon him by the Fourteenth Amendment to the Constitution.

CHAPTER LXXXIX

Final Surrender of Remaining Rebel Forces. — Rapid Mustering out of the Union Troops. — Stanton's Annual Report. — His Review of the War, and of the Operations of the War Department. — A Tribute to Stanton.

THE surrender of Lee to Grant on the 9th of April, and the surrender of Johnston to Sherman on the 26th of the same month, were followed by the surrender of all the remaining troops in the field east of the Mississippi, under Lieutenant-General Richard Taylor, to Major-General Canby, on the 4th day of May; and, on the 26th of that month, all of the Confederate armies west of the Mississippi, under General E. Kirby Smith, also surrendered to Major-General Canby. This ended all organized military resistance to the authority of the United States in the South.

Within four days after the surrender of Lee all drafting and recruiting were stopped, and also the purchase of military stores.

Two days after the surrender of Johnston the work of reducing and mustering out the volunteer forces was begun. The armies of the United States on the 1st day of May, 1865, numbered more than one million. Within two months and seven days 640,806 troops had been mustered out, and on the 15th of November, of the million of men in arms in May, more than 800,000 men

had been mustered out, and had returned to their homes to resume the pursuits of peace. This vast change was wrought under the inspiration and direction of Secretary Stanton. The energy which he had displayed in raising armies for the national defense, and in directing the vast operations by which they were furnished with the materials of war, was fully equaled by that with which he caused them to disappear when they had accomplished their patriotic purpose.

Nothing on this subject can equal in interest Secretary Stanton's own report of December, 1865. His opening paragraph in that document contains a volume. It is as follows: —

> The military appropriations by the last Congress amounted to the sum of five hundred and sixteen million two hundred and forty thousand one hundred and thirty-one dollars and seventy cents ($516,240,131.70). The military estimates for the next fiscal year, after careful revision, amount to thirty-three million eight hundred and fourteen thousand four hundred and sixty-one dollars and eighty-three cents ($33,814,461.83).

The maintenance of a great army until after the complete restoration of peace and order and local government in the South, and the reunion of all the States in Congress, would have given Mr. Stanton vast power, and added greatly to his individual importance before the country and the world. The Southern people had been led to regard him as their most vindictive enemy, and the least willing of all public men to credit them with peaceable intentions. The reason given by him in his report for dissolving the great armies shows how mistaken was their estimate of him. He said: —

The disposition exhibited after the surrender of their armies in all the insurgent States to submit to the national authority dispensed with the necessity of keeping large armies on foot, and indicated the degree to which they might be reduced. So much only of the national military force has been kept in each State as is needed to keep the peace, protect the public property, and enforce the laws.

Mr. Stanton said in this report: —

It is proposed to reduce the military establishment to fifty thousand troops.

Under this head he said: —

This estimate has been made after conference and careful consideration, and is believed to be adequate for any national exigency, should the country be blessed with peace.

He realized that this sudden dispersion of military power might create alarm in the public mind, because the temper and purposes of the defeated and disappointed rebels had not yet been made fully apparent. He had rather assumed their disposition to submit to the national authority than proven it. He believed that the best way to secure such submission was by thus assuming it. But in order to quiet public apprehension in the North, he presented to the country a showing of its immense military resources, and the rapidity with which, when occasion required it, they had been marshaled for defense, and could be again.

The reduction of the national military forces [said he] in its rapidity and numbers is without example, and if there be any alarm in the public mind because this reduction is made while grave questions at home and abroad are unsettled, a

brief consideration will show that there is no cause for apprehension.

The force to be retained is small compared with that which was organized to subdue the rebellion. But the only reasons demanding greater force are — 1st, renewal of the insurrection; 2d, a foreign war. For either or both emergencies the national resources remain ample. The chief demands for war, as shown by our experience, are, 1st, troops; 2d, arms and ammunition; 3d, clothing; 4th, transportation; and 5th, subsistence supplies.

First. The troops disbanded were chiefly volunteers, who went to the field to uphold the system of free government established by their fathers, and which they mean to bequeath to their children. Their toils and sufferings, their marches, battles, and victories, have not diminished the value of that government to them; so that any new rebellion would encounter equal or greater force for its reduction; and none can ever spring up with such advantages at the start, or be conducted with superior means, ability, or prospect of success. A foreign war would intensify the national feeling, and thousands, once misled, would rejoice to atone their error by rallying to the national flag. The question of time in which armies could be raised to quell insurrection or repel invasion is, therefore, the only question relating to troops. Our experience in this point is significant. When Lee's army surrendered, thousands of recruits were pouring in, and the men were discharged from recruiting stations and rendezvous from every State. On several occasions, when troops were promptly needed to avert impending disaster, vigorous exertion brought them into the field from remote States, with incredible speed. Official reports show that after the disasters on the peninsula, in 1862, over eighty thousand troops were enlisted, organized, armed, equipped, and sent into the field in less than a month. Sixty thousand troops have repeatedly gone to the field within

four weeks. And ninety thousand infantry were sent to the armies, from the five States of Ohio, Indiana, Illinois, Iowa, and Wisconsin, within twenty days.

When the rebellion commenced, the nation was a stranger to war. Officers had little experience, privates had none. But the present generation of men in this country are now veteran soldiers. For the battle, the march, or the siege they are already trained. They are as much at home in the tented field as in the farmhouse, the manufactory, or the shop. No time is required to train them; and the speed of the railroad and the telegraph determines the time required to raise an army in the United States.

Second. As to arms and ammunition. The disbanded armies were allowed to take home their arms at a nominal price. Rust is not likely to gather on the musket or sabre borne through the campaigns of 1864 and 1865. The government retains in its arsenals more than a million of the best quality of arms and equipments. The artillery on hand tasks the department for its means of storage. The manufacture of ammunition requires materials for which we have in some degree relied upon other countries, because they could be had cheaper. For this reason, and to guard against any mischance, three years' stock of materials has always been kept in store, and the supply on hand is ample for any war that can be waged against us by any nation.

Third. Clothing, transportation, and subsistence. After selling and distributing among freedmen and refugees all damaged or irregular clothing, the stock of clothing and material in the quartermaster's depots is sufficient for any armies that may be called into service. The water transports and rolling-stock, mules, wagons, and horses held by the government were adequate to the movement and supply of larger forces, in less time, than had heretofore been known in war. The government has disposed or is disposing of this transpor-

tation, but it remains in this country and can answer any exigency.

Army subsistence is derived from the country in which military operations are carried on, or supplied from other markets. During the war this most vital branch of the service never failed. It answers to the demand, and is ever ready to meet the national call.

It is plain, therefore, that the abundance of our means for war enables the government of the United States to reduce the standing force to a lower degree than any other nation. Unless war be actually raging, the military force can be brought within very narrow limits. However sudden the exigency calling for an exhibition of military power, it can be promptly met. With our education, habits, and experience, the nation, while in the midst of peace, is prepared for war.

The following general order by the Secretary of War of the 28th of April, only two days after the surrender of Johnston, and before the surrender of Taylor and E. Kirby Smith, will give an idea of the vast amount of labor which the reduction of the army imposed upon the various bureaus in his department: —

General Order No. 77.

Ordered: I. That the chiefs of the respective bureaus of this department proceed immediately to reduce the expenses of their respective departments to what is absolutely necessary, in view of an immediate reduction of the forces in the field and garrison, and the speedy termination of hostilities, and that they severally make out statements of the reduction they deem practicable.

II. That the quartermaster-general discharge all ocean transports not required to bring home troops in remote departments. All river and inland transportation will be dis-

charged except that required for necessary supplies to troops in the field. Purchase of horses, mules, wagons, and other land transportation will be stopped; also purchase of forage, except what is required for immediate consumption. All purchases for railroad construction and transportation will also be stopped.

III. That the commissary-general of subsistence stop the purchase of supplies in his department except for such as may, with what is on hand, be required for the forces in the field, to the first of June next.

IV. That the chief of ordnance stop all purchase of arms, ammunition, and materials therefor, and reduce the manufacturing of arms and ordnance stores in government arsenals as rapidly as can be done without injury to the service.

V. That the chief of engineers stop work on all field fortifications and other works, except those for which specific appropriations have been made by Congress for completion, or that may be required for the proper protection of works in progress.

VI. That all volunteer soldiers (patients) in hospitals, except veteran volunteers, veterans of the First Army Corps (Hancock's), and enlisted men of the Veteran Reserve Corps, who require no further medical treatment, be honorably discharged from service with immediate payment.

All officers and enlisted men who have been prisoners of war, and now on furlough or at the parole camps, and all recruits in rendezvous, except those for the regular army and the First Army Corps (Hancock's), will likewise be honorably discharged.

Officers whose duty it is, under the regulations of the service, to make out rolls and other final papers connected with the discharge and payment of soldiers, are directed to make them out without delay, so that this order may be carried into effect immediately. Commanding generals of armies

and departments will look to the prompt execution of this work.

VII. The adjutant-general of the army will cause immediate returns to be made by all commanders in the field, garrisons, detachments, and posts, of their respective forces, with a view to their immediate reduction.

VIII. The quartermaster's, subsistence, ordnance, engineer, and provost marshal general's departments will reduce the number of clerks and employees to that absolutely required for closing the business of their respective departments, and will, without delay, report to the Secretary of War the number required of each class or grade.

The surgeon-general will make similar reductions of medical officers, nurses, and attendants in his bureau.

IX. The chiefs of the respective bureaus will immediately cause property returns to be made out of the public property in their charge, and a statement of the property in each that may be sold, upon advertisement and public sale, without prejudice to the service.

X. The commissary of prisoners will have rolls made out of the name, residence, time and place of capture, and occupation of all prisoners of war who will take the oath of allegiance to the United States, to the end that such as are disposed to become good and loyal citizens of the United States, and who are proper objects of executive clemency, may be released upon the terms that to the President shall seem fit and consistent with public safety.

The disbanded troops were furnished with transportation from the fields in the Southern States to their homes in the West, East, and North. The Army of the Potomac and nearly all of the Western army under General Sherman were marched to the vicinity of Washington, where a grand review took place on the 22d and 23d of May.

On the 4th of June an order was made for the general discharge of prisoners of war, and the quartermaster's department was directed to furnish transportation to all released prisoners to the nearest accessible point to their homes by rail or steamboat.

Mr. Stanton's report states that the whole number of colored men enlisted into the service of the United States during the rebellion was 178,975. The losses among them during the war from all causes was 68,178. This was thirty-eight per cent.

Secretary Stanton made the following reference to his subordinates: —

By the heads of the respective bureaus of the War Department and their staffs the government has been served with a zeal and fidelity not surpassed by their brethren in the field. To them the honors and distinction of an admiring public have not been opened, but in their respective vocations they have toiled with a devotion, ability, and success for which they are entitled to national gratitude.

Mr. Stanton closes his annual report with the following tribute to Mr. Lincoln, to Congress, to the loyal States and their patriotic governors, and to the people who, by their votes at the ballot-box, upheld the national authority: —

Beside the signal success vouchsafed to our arms, other causes contributed to overthrow the rebellion. Among the chief of these may be reckoned: —

1. The steadfast adherence of the President to the measures of emancipating the slaves in the rebel States. Slavery was avowed by the leaders of the rebellion to be its corner-stone. By that system millions of people, constituting nearly the whole working population of the South, were

employed in producing supplies on the plantation, in the workshops, and manufactories, and wherever labor was required, thus enabling the white population to fill the rebel armies. The hopes of freedom, kindled by the Emancipation Proclamation, paralyzed the industrial power of the rebellion. Slaves seized their chances to escape, discontent and distrust were engendered, the hopes of the slave and the fears of the master, stimulated by the success of the Federal arm, shook each day more and more the fabric built on human slavery.

2. The resolute purpose of Congress to maintain the federal Union at all hazards, manifested by its legislation, was an efficient cause of our success. Ample supplies appropriated for the army and navy, revenue laws for supplying the treasury, careful revision and amendment of the laws for recruiting the army and enforcing the draft, gave practical direction to the patriotic purpose of the people to maintain a national existence that should afford protection and respect by means of the federal Union.

3. Patriotic measures adopted by the governors of loyal States, and the efficient aid they rendered the War Department in filling up the ranks of the army and furnishing succor and relief to the sick and wounded, largely contributed to the national preservation. Of these measures one of the most important was the aid tendered by the governors of Ohio, Indiana, Illinois, Iowa, Wisconsin, and Michigan in the opening of the campaign of 1864.

On the 21st day of April, 1864, Governors Brough, Morton, Yates, Stone, and Lewis made an offer to the President to the following effect: —

That these States should furnish for the approaching campaign infantry troops: 30,000 from Ohio, 20,000 from Indiana, the same number from Illinois, 10,000 from Iowa, and 5000 from Wisconsin; the term of service to be one hundred days; the whole number to be furnished within twenty days; the troops to be armed, equipped, and transported as other

troops, but no bounty to be paid, nor any credit on any draft, and the pending draft to go until the state quota was filled.

After full consideration and conference with the lieutenant-general, this offer was accepted by President Lincoln. The State of Ohio organized within four weeks, and placed in the field, 35,646 officers and men, being 5646 troops more than the stipulated quota. Other States, less able to meet the contingency, contributed with alacrity all that could be raised.

Although experience had shown that troops raised for a short term were more expensive and of less value than those raised for a longer period, these troops did important service in the campaign. They supplied garrisons and held posts for which experienced troops would have been required, and these were relieved so as to join the armies in the field. In several instances the three months' troops, at their own entreaty, were sent to the front, and displayed their gallantry in the hardest battles of the campaign.

4. The result of the presidential election of 1864 exerted an important influence upon the war. Intercepted letters and dispatches between the rebel leaders showed that their hopes of success rested greatly upon the presidential election. If the Union party prevailed, the prosecution of the war until the national authority should be restored appeared inevitable, and the rebel cause desperate. Even on the battlefield the influence of the election was felt. The overwhelming voice of the people at the presidential election encouraged the heroic daring of our own troops, and dismayed those who were fighting in a hopeless cause.

5. The faith of the people in the national success, as manifested by their support of the government credit, also contributed much to the auspicious result. While thousands upon thousands of brave men filled the ranks of the army, millions of money were required for the treasury. These were furnished by the people, who advanced their money

upon government securities, and freely staked their fortunes for the national defense.

Looking to the causes that have accomplished the national deliverance, there seems no room henceforth to doubt the stability of the federal Union. These causes are permanent, and must always have an active existence. The majesty of the national power has been exhibited in the courage and faith of our citizens, and the ignominy of rebellion is witnessed by the hopeless ending of the great rebellion.

The following from the pen of Charles A. Dana will be a fitting conclusion of this chapter: —

When the war ended by the enforced surrender of the Confederacy, the United States had under arms, as we suppose, something more than a million of soldiers. . . . The supreme question of the time was the disbandment of that immense army, and the return of soldiers and officers to the walks of peace, without any friction or any danger to the republic. To maintain the superiority of the civil spirit over the military was one of the great cares of Mr. Lincoln's mind, and it was the great care of Mr. Stanton's. The war was over, the need for armies was gone, and if this million veterans could only be merged and lost in the mass of citizenship, a critical difficulty would be removed and dissipated. . . .

The great work was finally accomplished; the army was brought back to peaceful life without a struggle or an accident. That tremendous martial array, which could have defied the world in arms, disappeared as if by magic; and some future historian who may be able to penetrate deeply into the causes and the disguises of events, will record in his pages the circumstance that this unprecedented transformation, in which so many anxious patriots, soldiers, and statesmen alike labored together, was preëminently achieved by the heroic genius and statesmanship of Edwin M. Stanton.

PART IX

RECONSTRUCTION. — PRESIDENT JOHNSON'S PLAN

CHAPTER XC

Attitude of the Belligerents after the War. — Questions as to the Status of the Rebel States and People.

THE end of armed hostilities by the defeat and surrender of the rebel armies, and the consequent disintegration of the Southern Confederacy and the flight of its chief and his advisers, brought problems and embarrassments as difficult of solution as any that had accompanied the war itself. The fierce antagonisms which had caused the war had been intensified by it. It was impossible for the contending parties to take the same view of their respective rights and duties. Each really believed the other to have been wrong. Northern patriotism seemed to the Southerner only tyranny. What was patriotism to the Southerner seemed to the Northerner only treason. In the North the national feeling was the dominant one, and the love of the Union was the passion which sent young men to the war. In the South the sovereignty of the States was apparently the object on which the sentiment of patriotism was centred; but deeper down than state pride and

stronger than the claim of the right of secession was the devotion to property right in slaves and hatred of the abolitionists, a term which then embraced all who denied Southern claims on the subject of slavery.

The Confederate States of America had represented all the power that could be summoned for the defense of slavery, not only against encroachment or restraint, but against the slightest unfriendly criticism. Rather than live in a Union which had elevated Mr. Lincoln to the presidency, the gage of battle had been thrown down by the defenders of slavery. They denied any binding obligation in the federal Constitution for any State to remain in the Union, if it preferred to go out of it, for whatever cause. A generation had been taught to regard that instrument as a convenient compact between the States with hardly the moral binding force of a treaty.

On the other hand, the people of the North believed the Union of the States under the Constitution formed a nation, which could be dismembered only by an armed force stronger than the nation itself. They were unable to comprehend the doctrine of secession, or to credit its advocates with sincerity. They were never convinced that the South seriously intended to attempt disunion until the first gun of the war was fired at Fort Sumter.

The war being inaugurated, it was waged by each side for the destruction of the other. The adherents of the nation united to destroy the Southern Confederacy, and to restore United States authority in the territory which the new and hostile government had

seized upon. They fought as any other people would have done for national existence. Those who warred upon the Union they regarded as public enemies. The rebels fought for the permanent conquest of that portion of the territory of the Union which was known as the Confederate States, and to make outlaws of all the citizens residing therein who chose to adhere to the old government. The sacrifices made by each of the belligerents gave the very best proof of the earnestness and sincerity of both. Mr. Lincoln had truly said in his second inaugural: "Both read the same Bible and pray to the same God, and each invokes His aid against the other." Such a war could not change the opinions of the parties to it.

The surrender of the Confederate armies immediately raised the vital question as to what governmental authority should prevail in the States which had been in rebellion. Of course the federal laws were equally binding throughout the Union. But these applied to none of the domestic affairs, which, under our system, are controlled solely by the States. Were the old state laws in force in the rebel States, and if so, by what authority were they to be enforced? Were the rebel state governments of the Confederacy to be recognized as legitimate successors to the ante-war governments of those States? Those who had elected them had at the time of the election been the public enemies of the United States, by their own free will, by every rule of public law, and by the decisions of the United States Supreme Court. That the state governments of the Southern Confederacy could not survive the Confeder-

acy itself was obvious to all but those governments themselves and their adherents.

The defeated and disappointed party were disposed to treat the period of the war as only an interregnum, and to insist upon the right of the defunct state governments of the Confederacy to immediately reappear as state governments of the Union. The national authorities regarded the governments in these States as only the remaining fragments of the late Southern Confederacy, with no more right to exercise authority than had the Confederacy itself. The States still existed, but without state governments; they were simply unorganized States.

Undoubtedly they were still in the Union, so far as their territory and their names were concerned. They were no longer in the possession of the Southern Confederacy. In the view of the United States government, that Confederacy had been merely a military organization. Its existence as a civil power was never recognized by this government. Its attempt to subjugate the authority of the United States in the rebel States had failed. The power which drew the sword had perished by the sword. The United States had conquered its enemies.

The rights of war include for the victor indemnity for the past and security for the future. No indemnity was sought; but that the defeated Confederates should be permitted, without giving any security for the future, to exercise civil power as the governing class in the Southern States of the Union, because they had governed them as States of the Southern Confederacy,

was deemed inadmissible by Congress, and by the masses of those who had sustained the war for the Union.

How this momentous question was disposed of, and upon what grounds the legality of its settlement was based, forms one of the most interesting features in the political history of the government.

The extent to which the people of the Confederate States had disabled themselves by the war they had unsuccessfully waged for independence was a prime element in the discussion of the question. The four years of armed conflict to determine whether the Union should be dismembered and eleven of its States erected into an independent nation became, in its progress, a public war, in which, to use the language of the Supreme Court of the United States,[1] "the insurgents were so thoroughly organized and formidable as to necessitate their recognition as belligerents," and "the usual incidents of a war between independent nations ensued." Continuing, the court said: —

> The rules of war as recognized by the public law of civilized nations became applicable to the contending forces. Their adoption was seen in the exchange of prisoners, the release of officers on parole, the recognition of flags of truce, and other arrangements designed to mitigate the rigors of warfare. The inhabitants of the Confederate States, on the one hand, and of the States which adhered to the Union, on the other, became enemies, and subject to be treated as such, without regard to their individual opinions or dispositions; while during its continuance commercial intercourse was forbidden, contracts between them were suspended, and the courts of each were closed against the citizens of the other.

[1] 120 *U. S. Reports*, 227.

The Supreme Court had decided, during the war, — in the prize cases,[1] — that in a civil war "hostilities may be prosecuted on the same footing as if those opposing the government were foreign enemies invading the land."

The public law thus asserted was but an application to a given case of the views uniformly held by the standard writers on international law.

In the prosecution of the war each belligerent had, of course, exercised to the full extent the recognized belligerent right, "not only to coerce the other by direct force, but also to cripple his resources by the seizure and destruction of his property."[2]

Such is "grim-visaged war," as described by the highest authority in the land, on public as well as on municipal law. The citations are made to enable the reader to apply them to the conditions which prevailed in the Confederate States at the cessation of hostilities in May, 1865.

Those conditions may be thus stated: —

1. The Confederate States government had totally disappeared. It was not contended even by any of its late adherents that the least vestige of its authority had survived the surrender of its armies and the flight of its chief.

2. The state governments which had respectively controlled local affairs within the several States of the Confederacy, subject to its constitution, and in hostility to the Constitution and government of the United States, had expired with the central government, of

[1] 2 *Black's Reports*, 667. [2] *Ibid.*, 671.

which they were but parts, and to which they had acknowledged allegiance.

3. The territory within which the rebels had set up their hostile government had passed under the military occupation of the government of the United States, and the inhabitants, being without local governments, were necessarily, for the time being, dependent upon federal military rule for the restoration and maintenance of public order.

4. There were fierce antagonisms among the white population growing out of conflicting views as to the war. The native Union minority were reinforced by Northerners, some of whom had been in the Union armies, while others came to push their fortunes in new fields.

5. The disbandment of the rebel armies and the return of their soldiers to their impoverished homes rather added to the general hopelessness of the time than to helpfulness in the amelioration of its condition.

6. There were four million of negroes who had been slaves, but who were now nearly all free by reason of the Emancipation Proclamation, and the remainder of whom were certain to be made so very soon by the pending constitutional amendment.

7. The natural resources of the South had been made almost entirely unavailable for the time being by the sudden destruction of its slave-labor system, for which free labor did not give promise of a substitute at an early day.

8. The vastness of the amount of property consumed by the two armies, added to that destroyed by the

exigencies of war, was beyond computation or even estimate.

Add to these conditions the utter disappointment of the hopes of a confident and a masterful people, and their immediate subjection to the rule of the army by which they had been defeated, and some idea may be formed of the terrible trial to which the situation had brought them, even if their leaders could have been wise and strong in moderation and self-control.

And what of the victors? Were they united in purpose and calm in the consciousness of power? Was Andrew Johnson worthy to succeed Abraham Lincoln, whose magnanimity ever went abreast with his achievement?

There were honest differences of opinion among the Union leaders as to the status of the Southern people, and as to the method of restoration of the Union that would conform to the Constitution. An extremely radical element insisted that the recovery of the eleven States from the grasp of the Confederacy was a conquest which carried with it all the rights of a conqueror over the inhabitants. A larger element claimed that the rebellion had not destroyed the States, but had only deprived them of legal governments; that the States, like the Union, were indestructible, and were guaranteed by the Constitution a republican form of government; that this guarantee must be executed by Congress, which body alone could judge of the legitimacy and sufficiency of the new governments to be erected in the places of those which had been displaced in 1861 by the rebel organizations.

Under these conditions the work of reconstruction commenced. It would have been simple enough had the sole aim of all the parties been the restoration of the Union on the basis of equal protection to all persons in their civil rights. There would then have been small contention over forms, and little pride of opinion as to the inconsequential abstractions which concerned only the promoters of academic discussions. Indeed, it may well be doubted if the South would have deemed it wise to enter upon a new political struggle with the Union forces, if its people had not been invited to ignore the disabilities they had imposed upon themselves, and to follow the standard of a new leader in the person of the President of the United States. It was Andrew Johnson who led them into the wilderness of the reconstruction era in which they wandered for years, and from which they emerged reluctantly admitting the validity of the Fourteenth and Fifteenth amendments to the Constitution. It was he who inflamed their hopes that they might break the force of emancipation by withholding from the emancipated millions of black people the protection of the local law.

With these observations we enter upon some account of the reconstruction period, in which the subject of these memoirs was destined to be a leading force, and during which the record shows his course to have been based upon no caprice or preconceived theory of his own, but upon the solid ground of the law, — which he certainly understood as well as any of those around him, — and of that justice which the law seeks to establish and maintain.

CHAPTER XCI

Reconstruction. — Mr. Lincoln's Views on the Subject during the War and immediately after Lee's Surrender.

THERE had been much discussion during the war on the general subject of reconstruction. Mr. Lincoln, in his message of December, 1863, proposed a reconstruction policy. As the attempt was persistently made during the reconstruction period, and afterwards, to make it appear that Mr. Lincoln favored a loose policy, under which those so lately in arms against the government would be certain of an advantage over those who had sustained it, it is well to see exactly what he did favor.

He appended to his message of December, 1863, a proclamation of amnesty, in which he prescribed an oath of allegiance, upon taking which the Southern people, with certain named exceptions, might receive full pardon for their participation in the rebellion. The excepted persons were, "All who are, or shall have been, civil or diplomatic officers or agents of the so-called Confederate government; all who have left judicial stations under the United States to aid the rebellion; all who are, or shall have been, military or naval officers of said so-called Confederate government above the rank of colonel in the army, or of lieutenant in the navy; all who left seats in the United States Congress to aid the rebellion; all who resigned

commands in the army or navy of the United States, and afterwards aided the rebellion; and all who have engaged in any way in treating colored persons, or white persons in charge of such, otherwise than lawfully as prisoners of war, and which persons may have been in the United States service as soldiers, seamen, or in any other capacity."

The proclamation declared that whenever in any of the rebel States, except Virginia (where a loyal provisional government had already been formed), "a number of persons not less than one tenth of the number of votes cast in such State at the presidential election of the year of our Lord 1860, each having taken the oath aforesaid, and not having since violated it, and being a qualified voter by the election law of the State existing immediately before the so-called Act of Secession, and excluding all others, shall reëstablish a state government which shall be republican, and in no wise contravening said oath, it shall be recognized as the true government of the State, and the State shall receive thereunder the constitutional benefits of the provision which declares that 'the United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the governor when the legislature cannot be convened, against domestic violence.'" The proclamation stated that "whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective houses, and not to any extent with the Executive."

The oath of allegiance prescribed in this proclamation not only required those who took it to support the government, but to "abide by and faithfully support all acts of Congress passed during the existing rebellion with reference to slaves, so long and so far as not repealed, modified, or held void by Congress, or by decree of the Supreme Court." And also to "abide by and faithfully support all proclamations of the President made during the existing rebellion having reference to slaves so long and so far as not modified or declared void by the Supreme Court." In his message he explained that the power of pardon included the right to withhold or to grant pardon on conditions.

It will be observed that under this plan of Mr. Lincoln, no citizen of a rebel State, who did not take the oath required, and who was not a voter by the election law of the State as it stood before secession, was to be permitted to participate in reëstablishing a state government. Every resident of the rebel States was, under the laws of war, a public enemy of the government. The laws of war prevailed because it had been decided by all three departments of the government that the rebellion was a civil war. The Supreme Court defined it to be "a territorial civil war." Only the President's pardon could relieve the people of the Confederacy of this legal consequence of the rebellion. This was equally true of those who were, and of those who were not, its willing supporters.

Mr. Lincoln's plan proceeded upon the assumption that the rebel state governments were, like the Confederacy itself, wholly illegal usurpations; that the rebel-

lion had not destroyed the States, but had destroyed the state governments; that the constitutional obligation of the United States to guarantee to every State a republican form of government was just as binding then as it had been before the war, and that, in order to make good this guarantee, Union state governments would have to be reëstablished to take the place of the state governments of the Confederacy.

As to the main question of whether the disloyal people of those States had a right without pardon to participate in the formation of state governments, he declared: —

> An attempt to guarantee and protect a revived state government constructed, in whole, or in preponderating part, from the very element against whose hostility and violence it is to be protected, is simply absurd.

He said there must be a test to separate the sound from the unsound, and he considered a sworn recantation of former unsoundness a sufficiently liberal test. In short, he held that no man in the rebel States had any right at that time to vote until he had secured the presidential pardon by taking the required oath.

This plan was advanced in December, 1863, a year and four months before the end of hostilities. Whenever one tenth or more of the voting population would thus separate themselves during the war from the cause of the rebellion, they could be trusted, and in such States as were partially within the Federal lines, state governments might be formed and protected by the government. The utility of such movements would be in the encouragement given to the Union cause

throughout the North, and in the influence they were sure to have with certain European nations in preventing the execution of schemes for intervention in behalf of the rebellion.

Mr. Lincoln's message was referred to a select Committee of Congress, which, in May, 1864, reported a bill providing for the appointment of provisional governors in the rebel States for the purpose of civil administration until state governments should be recognized. No state governments were to be formed until after the suppression of military resistance to the United States, and the people "sufficiently returned to their obedience to the Constitution and laws." Delegates to conventions to act upon the reëstablishment of state governments were then to be chosen by the white male citizens who would take the oath of allegiance, and who had not held or exercised any civil, military, state, or Confederate office under the rebel occupation, and who had not borne arms voluntarily against the United States. The bill provided that the assent of Congress should be necessary to authorize the President to proclaim a state government as reëstablished. It also provided that until such recognition no Senators, or Representatives, or presidential electors could be elected in such State. Until such reorganization the provisional governor was to enforce the laws of the Union and of the State before rebellion. The bill emancipated all slaves, and disfranchised the high civil and military officers of the Confederacy.

This bill passed the House of Representatives on the 4th of May, and passed the Senate July 2 with amend-

ments. Mr. Lincoln failed to approve the bill. It was sent to him for his approval less than an hour before the final adjournment of the session. As he had no time to return it with his objections, he shortly afterwards issued a proclamation, in which he said that he was not prepared to be inflexibly committed to any single plan of reconstruction; he was also unprepared to sign a bill which would set aside the free state constitutions and governments then recently adopted in Arkansas and Louisiana, or to declare a constitutional competency in Congress to abolish slavery in States. But he sincerely hoped and expected that a constitutional amendment abolishing slavery would be adopted. He was fully satisfied with the bill as one very proper for the loyal people of any State choosing to adopt it, and he declared his readiness to "give the executive aid and assistance to any such people as soon as military resistance to the United States shall have been suppressed in any such State, and the people thereof sufficiently returned to their obedience to the Constitution and laws of the United States." "In each case," he said, "military governors will be appointed, with directions to proceed according to the bill."

The President's objections to this bill did not include any objection to the provision that the assent of Congress should be a prerequisite to final restoration. He thought it unwise to have any unvarying rule for all of the States; he was unwilling to displease or discourage the loyal citizens of Arkansas and Louisiana who had responded to his message of December and framed loyal state governments; and he was not willing to

approve an act of Congress abolishing slavery in the States as the Constitution then stood. His Emancipation Proclamation had not abolished slavery or undertaken to do so. It had only made free the slaves within the Confederate lines at the time of its issue. His mental processes were much more deliberate than those of Congress as a body, but they differed really on nothing fundamental, and least of all upon the main proposition that the work of reconstruction must begin at the foundation, and that in it the existing rebellious state governments could have no place.

After the surrender of Lee, and in his latest public address, on the 12th of April, two days before his death, Mr. Lincoln said: —

> By these recent successes and the reinauguration of the national authority, reconstruction, which has had a large share of thought from the first, is pressed much more closely upon our attention. It is fraught with great difficulty. Unlike the case of war between independent nations, there is no authorized organ for us to treat with. No man has the authority to give up the rebellion for any other man. We must simply begin with and mold from disorganized and discordant elements.

At the same time he referred to his message of 1863, and said, concerning the plan therein presented: —

> I distinctly stated that this is not the only plan which might possibly be acceptable, and I also distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States.

He declared that the question of whether the seceded

States were in the Union or out of it was a merely pernicious abstraction and good for nothing at all. He said: —

We all agree that the seceded States, so called, are out of their proper practical relation with the Union, and that the sole object of the government, civil and military, in regard to those States is again to get them into that proper practical relation. I believe that it is not only possible, but, in fact, easier to do this, without deciding, or even considering, whether these States have ever been out of the Union than with it. Finding themselves safely at home, it would be utterly immaterial whether they had ever been abroad. Let us all join in doing the acts necessary to restoring the proper practical relations between those States and the Union, and each forever after innocently indulge his own opinion whether, in doing the acts, he brought the States from without the Union, or only gave them the proper assistance, they never having been out of it.

CHAPTER XCII

Stanton on Reconstruction. — His Draft of a Mode read in Cabinet Meeting on the Last Day of Mr. Lincoln's Life. — President Lincoln forbids the Assembling of the Rebel Legislature of Virginia after Lee's Surrender. — President Johnson's Order to Military Commanders to prevent the Exercise of Authority by any of the Rebel State Governments.

Mr. Stanton's connection with reconstruction commenced before Mr. Lincoln's death. He testified before the Judiciary Committee of the House of Representatives, on May 18, 1867, that on the day of that event, April 14, 1865, there was a cabinet meeting at which all of the Cabinet except Mr. Seward were present; and that General Grant, who was also present, made a report of the condition of the country as he conceived that it was, and as it would be upon the surrender of Johnston's army, which was then regarded as certain.

The subject of reconstruction being discussed at considerable length, Mr. Stanton, at Mr. Lincoln's request, read a draft of a mode which he had prepared, whereby "the authority and laws of the United States should be reëstablished and governments reorganized in the rebel States under the federal authority without any necessity whatever for the intervention of rebel organizations or rebel aid." [1]

The Cabinet adjourned without any definite action. Mr. Lincoln met his death that evening.

[1] From a manuscript memorandum by Mr. Stanton.

The plan of reconstruction submitted at that time was afterwards claimed by President Johnson to have been the basis of his North Carolina proclamation of May 29, 1865, which was his first step in the direction of reconstruction.

Mr. Lincoln's last telegram was one transmitted to Major-General Weitzel, in command at Richmond, on the 12th of April, in which he ordered that "the gentlemen who had acted as the legislature of Virginia in the support of the rebellion be not allowed to assemble even in their individual capacity." The following is the dispatch: —

I have just seen Judge Campbell's letter to you of the 7th. He assumes, as it appears to me, that I have called the insurgent legislature of Virginia together, as the rightful legislature of the State, to settle all differences with the United States. I have done no such thing. I spoke of them not as a legislature, but as "the gentlemen who have acted as the legislature of Virginia in the support of the rebellion." I did this on purpose to exclude the assumption that I was recognizing them as a rightful body. I dealt with them as men having power *de facto* to do a specific thing, to wit; "to withdraw the Virginia troops and other support from resistance to the general government," for which, in the paper handed to Judge Campbell, I promised a special equivalent, to wit; a remission to the people of the State, except in certain cases, of the confiscation of their property. I meant this and no more. Inasmuch, however, as Judge Campbell misconstrues this, and is still pressing for an armistice, contrary to the explicit statement of the paper I gave him, and particularly as General Grant has since captured the Virginia troops, so that giving a consideration for their withdrawal is no longer applicable, let my letter to you and the paper

to Judge Campbell both be withdrawn or countermanded, and he be notified of it. Do not now allow them to assemble, but if any have come, allow them safe return to their homes.

On the 9th of May President Johnson issued an executive order recognizing the authority of the Pierpoint administration in all of Virginia. Pierpoint had, during the war, been chosen governor at an election held by the loyal people of the State of Virginia within so much of its territory as was within the Federal lines. It was through the action of the state government so created, and recognized by Congress, that the constitutional assent was given by Virginia for the erection in a portion of her territory of the State of West Virginia. President Johnson in his order declared that "all acts and proceedings of the political, military, and civil organizations which have been in a state of insurrection and rebellion, within the State of Virginia, against the authority of the United States, and of which Jefferson Davis, John Letcher, and William Smith were late the respective chiefs, are declared null and void. All persons who shall exercise, claim, pretend, or attempt to exercise any political, military, or civil power, authority, jurisdiction, or right, by, through, or under Jefferson Davis, late of the city of Richmond, and his confederates, or under John Letcher, or William Smith and their confederates,[1] or under any pretended political, civil, or military commission or authority issued by them, or either of them, since the 17th day of April, 1861, shall

[1] John Letcher and William Smith were successively governors of the rebel State of Virginia during the war.

be deemed and taken as in rebellion against the United States, and shall be dealt with accordingly."

It would be difficult to find language to more thoroughly express the view that the rebel state government of Virginia had disappeared with the Confederacy of which it was a part, and that any attempt to act by its authority would be treason against the United States. No further attempt was ever made by any to act under such authority.

In Mississippi, on the 10th of May, the rebel governor, Clark, called an extra session of the legislature for the 18th of May. President Johnson immediately directed the military commander of the department to "prevent, by force if necessary, any attempt of any of the legislatures of the States in insurrection to assemble for legislative purposes."

Governor Brown, of Georgia, issued a call for a special session of the legislature, which was annulled by an order from Major-General Gilmore.

On the 8th of May Governor McGrath, of South Carolina, summoned the state officers to resume their duties. On the 14th Major-General Gilmore issued an order nullifying the governor's acts.

The Confederate and state governments having thus been entirely obliterated as a result of the war of the rebellion, there was no existing authority in that region for the preservation of peace and the protection of life and property, except the military authority of the United States.

United States troops cannot "invade" any State, for the reason that they are at their home in any of them.

That part of the United States which had been in rebellion had been occupied by a public enemy, who, according to the decision of the United States Supreme Court in the prize cases,[1] occupied a position analogous to that of foreign enemies invading the land. The exact language is as follows: —

> When the course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts of justice cannot be kept open, civil war exists, and hostilities may be prosecuted on the same footing as if those opposing the government were foreign enemies invading the land.

It became, therefore, the highest duty of the President to make immediate provision for Southern military government until civil governments could be properly brought into existence.

On the 10th of May General John M. Schofield, commanding the Department of North Carolina, addressed a lengthy letter to General Grant on the subject of reconstruction. It related almost wholly to the question of the qualification of voters in North Carolina at any election that might be held for the establishment of state governments. General Grant's reply to this letter was dated May 10, and was as follows: —

> Until a uniform policy is adopted for reëstablishing civil governments in the rebellious States, the military authorities can do nothing but keep the peace. I have just received your letter of the 10th and agree with your views.

[1] 2 *Black's Reports*, 667, 668.

CHAPTER XCIII

President Johnson's Plan of Reconstruction. — His Declarations that the Governments to be organized under it would be Provisional only until approved by Congress.

Mr. Johnson's first step towards the partial restoration of civil power in the South was the appointment of William W. Holden as provisional governor for the State of North Carolina. The appointment was made in a proclamation by the President, countersigned by the Secretary of State, and dated May 29, 1865. It was as follows: —

Whereas the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion and domestic violence; and whereas the President of the United States is, by the Constitution, made commander-in-chief of the army and navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has, in its revolutionary progress, deprived the people of the State of North Carolina of all civil government; and whereas it be-

comes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina, in securing them in the enjoyment of a republican form of government:

Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the people of the said State to organize a state government, whereby justice may be established, domestic tranquillity insured, and loyal citizens protected in all their rights of life, liberty, and property, I, Andrew Johnson, President of the United States, and commander-in-chief of the army and navy of the United States, do hereby appoint William W. Holden provisional governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention, composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the Constitution thereof; and with authority to exercise, within the limits of said State, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the federal government, and to present such a republican form of state government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence; provided, that in any election that may be hereafter held for choosing delegates to any state convention as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall have previously taken the oath of amnesty, as set forth in the President's proclamation of May 29, A. D. 1865, and is a voter qualified as prescribed by the constitution and laws of the State of North Carolina, in force immediately before the 20th

day of May, 1861, the date of the so-called ordinance of secession; and the said convention when convened, or the legislature that may be thereafter assembled, will prescribe the qualification of electors and the eligibility of persons to hold office under the constitution and laws of the State, a power the people of the several States composing the federal Union have rightfully exercised from the origin of the government to the present time.

And I do hereby direct: —

First. That the military commander of the department, and all officers and persons in the military and naval service, aid and assist the said provisional governor in carrying into effect this proclamation, and they are enjoined to abstain from, in any way, hindering, impeding, or discouraging the loyal people from the organization of the state government as herein authorized.

Then followed directions for putting in force, by the various departments of the government, the laws of the United States within the geographical limits of North Carolina.

Like proclamations were made during the summer of 1865 for the appointment of provisional governors in all the States lately in rebellion except Virginia, Louisiana, Arkansas, and Tennessee, in which States the work of reconstruction had been inaugurated during the lifetime of President Lincoln.

The terms of Mr. Johnson's proclamation were in harmony with the attitude taken by Mr. Lincoln. It declared that the rebellion had deprived the people of North Carolina of all civil government. It cited the obligation of the United States to guarantee to every State a republican form of government. It made

especial reference to the fact that the President of the United States is, by the Constitution, made commander-in-chief of the army and navy, as well as the chief civil executive officer of the United States. He based his authority for the action he was taking upon his military, as well as his civil, character; and referred to his solemn oath of office and his duty to take care that the laws were faithfully executed.

It is evident that the President considered that he was dealing with a totally unorganized people. He proceeded to prescribe the duties of the provisional governor, the first of which was to call a convention for the purpose of altering or amending the constitution of the State. He required that the delegates to such convention "be chosen by that portion of the people of said State who are loyal to the United States, and no others," — the test of loyalty being the taking and subscribing to the oath of amnesty set forth in the President's proclamation of the same date with the proclamation appointing the governor. No person could vote until he first took the oath, nor then, unless he was a voter qualified by the Constitution and laws of the State of North Carolina in existence immediately before the so-called ordinance of secession. From this it appears that the President considered that the Constitution and laws of the State were still in existence, although no government existed to enforce them. He held all the people of the State as having forfeited their political rights by reason of the rebellion, and as being dependent upon the executive pardon for their restoration. He held, with Mr. Lincoln, that the power to

pardon included the power to impose conditions, and the condition he imposed was an oath to support the Constitution of the United States, and to abide by and faithfully support all laws and proclamations which had been made during the rebellion with reference to the emancipation of slaves. He excepted, however, fourteen classes of persons from the operation of the proclamations of amnesty and pardon, and consequently from the right to vote for delegates, or to sit as delegates, in the state convention. These exemptions were as follows: —

1st. All who are or shall have been pretended civil or diplomatic officers or otherwise domestic or foreign agents of the pretended government: 2d. All who left judicial stations under the United States to aid the rebellion: 3d. All who shall have been military or naval officers of said pretended Confederate government above the rank of colonel in the army, or lieutenant in the navy: 4th. All who left seats in the Congress of the United States to aid the rebellion: 5th. All who resigned or tendered resignations of their commissions in the army or navy of the United States to evade duty in resisting the rebellion: 6th. All who have engaged in any way in treating otherwise than lawfully as prisoners of war, persons found in the United States service as officers, soldiers, seamen, or in other capacities: 7th. All persons who have been or are absentees from the United States for the purpose of aiding the rebellion: 8th. All military and naval officers in the rebel service, who were educated by the government in the Military Academy at West Point or the United States Naval Academy: 9th. All persons who held the pretended offices of governors of States in insurrection against the United States: 10th. All persons who left their homes within the jurisdiction and protection of the United States, and

passed beyond the Federal military lines into the pretended Confederate States for the purpose of aiding the rebellion: 11th. All persons who have been engaged in the destruction of the commerce of the United States upon the high seas, and all persons who have made raids into the United States from Canada, or been engaged in destroying commerce of the United States upon the lakes and rivers that separate the British Provinces from the United States: 12th. All persons who, at the time when they seek to obtain the benefits hereof by taking the oath herein prescribed, are in military, naval, or civil confinement, or custody, or under bonds of the civil, military, or naval authorities, or agents of the United States as prisoners of war, or persons detained for offenses of any kind, either before or after conviction: 13th. All persons who have voluntarily participated in said rebellion, and the estimated value of whose taxable property is over twenty thousand dollars: 14th. All persons who have taken the oath of amnesty as prescribed in the President's proclamation of December the 8th, A. D. 1863, or an oath of allegiance to the government of the United States since the date of said proclamation, and who have not thenceforward kept and maintained the same inviolate.

Provided, that any special application may be made to the President for pardon by any person belonging to the excepted classes; and such clemency will be liberally extended as may be consistent with the facts of the case and the peace and dignity of the United States.

There was yet a large class of people in the State to whom the right of suffrage was not extended by the proclamation upon any terms whatever, and this was the emancipated slaves. The President believed that only the Constitution and laws of the State could confer that right, and that while he might, by his pardon,

restore the white inhabitants to their right to vote, which, prior to the rebellion, they had enjoyed under the constitution of the State, but which by the rebellion they had forfeited, he had not the power to confer even temporarily the right to vote upon those (the blacks) who had not possessed it under that constitution. On this subject he said in his proclamation: —

> And the said convention, when convened, or the legislature that may be thereafter assembled, will prescribe the qualification of electors, and the eligibility of persons to hold office under the constitution and laws of the State, — a power the people of the several States composing the federal Union have rightfully exercised from the origin of the government to the present time.

This was well understood to be in the nature of an explanation of the omission of any provision for voting by any portion of the emancipated slaves. It was strongly contended by those who were termed "radicals" that slavery had died by the war, and that the emancipated slaves were thus made "people" and a part of the body politic. They thought that if the great body of those who had voluntarily engaged in the rebellion could be pardoned for this offense, the loyal black man could be pardoned for the color of his skin. They had no scruples about disregarding the limitations of the election laws which existed at the time of secession. They did not understand how local laws could survive the destruction of all civil government, — four years of suspended animation, and the change wrought, by emancipation, in the legal status of the blacks. They distrusted the efficiency of an

amnesty oath to allay the fierce passions which the war had engendered. To them it seemed to be dangerous to hold out to a disappointed and embittered enemy the civil control of the State in exchange for such oaths; and it seemed absurd to expect that peace and harmony should instantly take the place of violence and discord, because one of the parties to a four years' war had become exhausted. These "radicals" embraced a powerful element in the Union party. They watched with much apprehension the progress of Mr. Johnson's "plan."

There was, however, a general disposition among the Union masses and their leaders to reserve their judgment, and be governed in their final decision by the course pursued by the Southern people in the election of the provisional state governments. Mr. Johnson had been among the most intense of the Southern unionists. In all his interviews and speeches in Washington, from the time of his inauguration as Vice-President until the death of Mr. Lincoln, he had strenuously insisted that "rebels must take back seats in the work of reconstruction." When he became President, the fear among the leaders of his party had been that he would be too violent rather than too moderate. It was the knowledge of all these things that led many to believe that if the operations under his plan should make it evident that the civil power in the South, when finally restored, would be in the hands of men who would attempt to nullify emancipation, and withhold suitable protection from white and black unionists, he would set aside the work, and require it to be recom-

menced, as many times as might be necessary to accomplish the object he declared he had in view.

Although the President's proclamations appointing provisional governors in the several States were countersigned by the Secretary of State and issued from the State Department, it must not be inferred that the provisional governments were free from a military character. In a letter to Governor Holden, of North Carolina, Secretary Seward informed him that the expense attending the organization of the State of North Carolina would be "paid out of the War Department as an expense incident to the suppression of the rebellion."

Nor must it be assumed that it was any part of President Johnson's purpose at that time to claim the power of determining the sufficiency of the work that might be done pursuant to his proclamations. On the contrary, the record makes it perfectly clear that he did not believe he possessed such power, but that Congress alone, under the Constitution, could decide whether the new governments were legally organized, and republican in form, and, therefore, entitled to the guarantee of the Constitution. His proclamation required such alterations and amendments to the state constitutions as he thought would entitle the States to the guarantee of the Constitution and the protection of the federal government, which could be given only by Congress. There were two dispatches from Mr. Seward to provisional governors, by the President's directions, in which the declaration was definitely made that the new state governments would continue to be temporary and provisional only, until approved by Congress. One of

these telegrams, dated July 14, 1865, was to William L. Sharkey, provisional governor of Mississippi, and said: —

The government of the State will be provisional only until the civil authorities shall be restored, with the approval of Congress. Meanwhile military authority cannot be withdrawn.

The other, to Provisional Governor Marvin, of Florida, dated September 12, 1865, said: —

Your excellency's letter of the 29th ultimo, with the accompanying proclamation, has been received and submitted to the President. The steps to which it refers, towards reorganizing the government of Florida, seem to be in the main judicious, and good results from them may be hoped for. . . . It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.[1]

[1] McPherson's *History of Reconstruction*, page 25.

CHAPTER XCIV

Proceedings of the Southern State Conventions called under the President's Proclamation. — The President's Demands on those Conventions. — His Letter to Sharkey, of Mississippi, discloses a Change of Purpose. — He designates Union "Radicals" as the "Adversary."

THE North Carolina convention, held in October, 1865, under the proclamation of the President, adopted ordinances repealing the secession ordinance of 1861; ordering an election of a general assembly, representatives in Congress, and governor of the State; and declaring vacant all offices of the State from the 26th of April, 1865, the day of the surrender of General Johnston. The convention declared void all debts and obligations incurred by the State in aid of the rebellion. A commission was appointed to report to the legislature a code of laws on the subject of freedmen, and it petitioned the President for total amnesty. It declared the Southern Confederacy a military usurpation from which the good people of North Carolina had been relieved "by the lawful action of the United States government under the powers delegated to it by the laws to suppress insurrection and repel invasions," and asserted the willingness of the people to resume their duty of allegiance and support of the Constitution and the Union. It announced that all purpose of resistance

to the United States government had ceased, and that no attempt would be made to renew it in any form. It requested the discontinuance of the operation of military power in North Carolina, a proclamation by the President of the full restoration of the State to its rights and privileges under the Constitution, the removal from the State of all colored troops in the service of the United States, and the repeal of the test oath as a qualification for a seat in Congress, or to hold office under the federal government.

Pending action on slavery, Mr. Seward wrote the provisional governor that "the President sincerely trusts that North Carolina will, by her legislature, promptly accept the congressional amendment to the Constitution of the United States abolishing slavery." An amendment to the state constitution, by which slavery would be abolished, was not regarded by the President a sufficient guarantee on the subject. The demand was universal among Union men for the ratification of the amendment to the Constitution of the United States abolishing slavery, which had been submitted by Congress to the States. The abolition of slavery by the States only might be reversed by them at any time. There was no fear that the requisite three fourths of all the States in the Union could ever be secured to reëstablish slavery, if it could be abolished by an amendment to the fundamental law of the nation. The North Carolina legislature ratified the Thirteenth Amendment to the Constitution of the United States on the 1st of December.

The President made no response to the request of

the North Carolina convention that he should proclaim the restoration of the State. On the 4th of December he relieved the provisional governor from the office he held, and directed him to transfer the papers and property of the State to the governor-elect so soon as he should qualify. A letter of similar purport was, at the same time, addressed to the governors of South Carolina, Georgia, Alabama, Mississippi, and Florida.

In Mississippi, where a provisional governor was appointed June 13, 1865, General Slocum, the military commander, arrested a man for murder. The accused applied to a judge at Vicksburg for a writ of habeas corpus for the surrender of the prisoner to the civil authorities. General Slocum refused to obey it on the ground that the State was still under martial law. Provisional Governor Sharkey called upon the President to interfere. The President refused in a dispatch from Mr. Seward, hitherto quoted from, in which he said: —

> The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only until the civil authorities shall be restored with the approval of Congress.

This was on the 24th of July. Governor Sharkey did not rest with this. On the 12th of August he sent the entire record of the case to the end that the suspension of the writ of habeas corpus might be rescinded, and military control be ended. Secretary Seward responded as follows: —

> Upon due consideration of the state of affairs in Mississippi, as well as several of the other States which have been afflicted by the evils of insurrection, the President is of the

opinion that it is inexpedient at present to rescind the suspension of the writ of habeas corpus in the case, which, in the papers named, you have submitted to him. Anarchy must in any case be prevented, as the process of reorganization, though seemingly begun very well, nevertheless is yet only begun.

The Mississippi convention, called and held under President Johnson's proclamation, met on the 14th of August. The next day the President sent the following personal telegram to Provisional Governor Sharkey: —

I am gratified to see that you have organized your convention without difficulty. I hope that without delay your convention will amend your state constitution abolishing slavery, and denying to all future legislatures the power to legislate that there is property in man; also that they will adopt the amendment to the Constitution of the United States abolishing slavery.

If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English and write their names, and to all colored persons who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon, you would completely disarm the adversary, and set an example the other States will follow. This you can do with perfect safety, and you thus place the Southern States, in reference to free persons of color, upon the same basis with the free States. I hope and trust your convention will do this, and as a consequence, the radicals, who are wild upon the negro franchise, will be completely foiled in their attempts to keep the Southern States from renewing their relations to the Union by not accepting their senators and representatives.

It is obvious that this dispatch was never intended for the public eye, but merely for Governor Sharkey's

private use among those who could be moved by it. It was in an entirely different tone from that which had characterized all of President Johnson's previous utterances. It was evidently a declaration of war against all who favored the enfranchisement of the black race, and was notice to their opponents that the President was on their side, and that, in common with them, he regarded the friends of the negro as the "adversary." It invited the color line in politics. He favored the extension of the franchise to classes of colored persons so few in number that he said it could be done "with perfect safety" to the element whose political purposes were such as the negroes would for self-preservation naturally oppose. He urged the convention to give the ballot to the colored men who could read the Constitution, and who owned two hundred and fifty dollars' worth of real estate, for the express purpose, as he avowed, of foiling the "radicals" in the attempt which he assumed they would make to retard the restoration of the rebel States to representation in Congress.

Compare this dispatch with the North Carolina proclamation of May 29, upon which all the others were modeled. Then, "that portion of the people of said State who are loyal to the United States and no others" were to take part in the work of reconstruction. If he had then looked for the "adversary," he would have been found among those recently in arms against the government. Now the only "adversary," to be circumvented was that portion of the Union element which, whether wisely or unwisely, believed that all the people in the Southern States, without regard to

color, who were friendly to the government, ought to have a voice in reconstruction equally with those who might simulate loyalty through the form of an oath, regarded by many of them as taken under duress, and therefore not binding, and which would give them the political power of the State.

President Johnson was well aware that whatever friendly disposition the Southern people had for their slaves as such, emancipation had naturally made a great change in the feeling towards them. Free negroes had always been an abomination in the South during the existence of slavery. The repugnance to them was intensified when the whole black population was suddenly transformed into free negroes through the conquering power of the nation. They were a standing monument to national power, and a witness to the subjugation and destruction of the Southern Confederacy.

It was but natural that the Southern people should devote themselves to the work of proving emancipation a failure both for the blacks and their emancipators. They really believed the black race to be totally unfit for freedom. On the other hand, the protection of the negro against unequal laws became the duty of the government; and those of the people who believed in this duty arrayed themselves against any plan of restoration which did not contain sufficient guarantees of fair treatment to the emancipated race.

The real struggle, therefore, was whether the policy to be pursued toward the freedmen should be marked out by their enemies, or by the supporters of the government which had made his emancipation a military

weapon for the suppression of the rebellion. In this struggle President Johnson suddenly placed himself on the side of the deposed slave-masters. His intense hatred of secessionists and rebels, which had made him one of the most conspicuous of the Southern loyalists, gave way to his greater hatred of the negro. His telegram to Governor Sharkey, above quoted, was a surrender on conditions too weak and trivial to be taken into account as conditions at all. The South gave up slavery because the war had dissipated it as absolutely as water is lost when spilled upon the ground. But the abolition of slavery was one thing, and the congressional legislation deemed appropriate for its enforcement and the establishment of freedom was quite another. The rebel debt gave the defeated rebels but little concern. The owners of the Confederate bonds had staked their money on Confederate success, and lost. The two conditions, therefore, upon which Mr. Johnson joined hands with the enemy of the negro, namely, the abolition of slavery and the repudiation of the rebel debt, were the mere recognition of accomplished facts. Upon these light conditions he soon parted company with all who had supported the Union during the war, and who were either radicals, or moderates continuing their political association with the radicals.

The Mississippi convention abolished slavery in the State on the expressed ground that that institution had already been destroyed, and declared the secession ordinance null and void. An election was held in October, and the new legislature met on the 18th of that month.

The anti-slavery amendment to the federal Constitution was referred to a joint committee, which reported against ratifying it, and the report, and not the amendment, was adopted. The principal reason given was that the amendment to the state constitution was sufficient. The committee especially objected to the second section of the thirteenth article, which gave to Congress the power to enforce it by appropriate legislation. They said: —

> The committee cannot anticipate what construction future Congresses may put upon this section. It may be claimed that it would be appropriate for Congress to legislate in respect to freedmen in the State. This committee can hardly conceive of a more dangerous grant of power than one which, by construction, might admit federal legislation in respect to persons, denizens and inhabitants of the State. If there be no danger now, the committee fear the time may come that the public mind might be influenced on this subject to the degree of endangering the reserved rights of the States.

They declared that the "radicals and extremists" might "further vex and harass the country on the pretension that the freedom of the colored race is not perfect and complete until it is elevated to a social and political equality with the whites." The Thirteenth Amendment never was ratified by the State of Mississippi.

Georgia held her convention, repealed the secession ordinance, and finally declared void the state debt incurred in aid of the rebellion. Even this latter was not done without aid from the administration. Provisional Governor Johnson telegraphed to the President October 27, 1865: —

We need some aid to repeal the war debt; send me some word on the subject. What should the convention do?

To Mr. Seward he telegraphed: —

We are pressed on the war debt. What should the convention do?

The President sent a strong exhortation for proper action. Mr. Seward telegraphed more imperatively. He said: —

The President of the United States cannot recognize the people of any State as having resumed the relations of loyalty to the Union that admits, as legal, obligations contracted or debts created in their name to promote the war of the rebellion.

It will be seen from this dispatch that the President did not then say, as he did a few months later, that the people of any rebel State could resume their relations to the Union at will and as of right.

On the 5th of December the legislature ratified the amendment to the federal Constitution concerning slavery.

The Alabama convention met September 12, 1865, and ordered a state election for the first Monday in November. September 20 the convention abolished slavery on the expressed ground that it had already been destroyed in the State. It declared that the secession ordinance was null and void and repudiated the rebel state debt.

On the 2d of December the legislature ratified the anti-slavery amendment to the federal Constitution, with the condition, "that it does not confer upon Congress a power to legislate upon political rights of freedmen in

this State." Secretary Seward thereupon sent Provisional Governor Parsons the President's congratulations "upon the acceptance of the congressional amendment to the Constitution of the United States by the State of Alabama, which vote being the twenty-seventh, fills up the complement of two thirds, and gives the amendment finishing effect as a part of the organic law of the land."

The convention of South Carolina met September 13, 1865, repealed the secession ordinance, declared slavery abolished, and ordered a state election. The legislature met in October.

The President urged the adoption of the anti-slavery amendment to the Constitution and the repudiation of the rebel state debt. Mr. Seward notified the governor that the acceptance of the amendment by South Carolina was "indispensable to the restoration of her relations with the other States of the Union." The legislature then ratified the anti-slavery amendment, accompanying the same with a protest against any attempt by Congress towards legislating upon the political status of former slaves. Mr. Seward, speaking for the President, again insisted upon the repudiation of the rebel debt, to which Provisional Governor Perry replied that the convention had been dissolved, and that he "thought it wrong to keep a revolutionary body in existence, and advised their immediate dissolution." Mr. Seward insisted that the legislature should express itself, which it did somewhat sarcastically, by referring the subject to the committee on foreign relations, to report the next year.

The convention of Florida met October 25, 1865, annulled the secession ordinance, and repudiated the rebel debt. A legislature was elected which ratified the anti-slavery amendment.

The alacrity with which most of the conventions and legislatures in the States lately in rebellion responded to President Johnson's demands for amendments to their own constitutions, and the ratification of the federal anti-slavery amendment, gave evidence that the governing classes of the late Confederacy believed that the President was coöperating with them in an earnest and well-conceived movement for the restoration of civil power in the respective States in virtually the same hands that had controlled the destinies of those States during the war. That such was to be the result of his plans was well illustrated by what occurred in the State of North Carolina, where the most conservative action might have been expected. Provisional Governor Holden telegraphed the President on the 1st of December, 1865, concerning the legislature which was to choose United States senators: "There appears to be a clear anti-administration or secession majority on joint ballot." He believed Governor Graham would be elected, and had not changed his opinion with regard to him. Graham had, in September, taken the ground that unpardoned persons could sit in the convention. This was in direct resistance to the President's proclamation on the subject. Three days after the governor's dispatch as above, Graham was elected by 138 votes to 14 scattering.

In Mississippi Provisional Governor Sharkey com-

menced the organization of militia companies to suppress crime. General Slocum peremptorily stopped it. The governor protested, and claimed that his authority was derived from an interview with the President. The President telegraphed to General Carl Schurz at Vicksburg, saying he presumed General Slocum would issue no order interfering with Governor Sharkey without first consulting with the government. He then proceeded to give reasons why a militia should be organized in each county. He thought it would enable the federal government to reduce the army, and to a large extent withdraw its forces from the States. He remarked that "if there was any danger from any organization of the citizens, for the purposes indicated, the military would be there to suppress it on the first appearance of any movement insurrectionary in its character. One great object is to induce the people to come forward in defense of the state and federal governments." This was more than a month previous to the election of state officers. Governor Sharkey was the only civil officer in the State, and General Slocum was the military commander. It would be difficult to conceive of a more anomalous condition of affairs than that under which, in the absence of any civil government, the military force to restore order should be divided between a militia, organized out of the body of the lately rebellious people, and the military force of the United States, which had suppressed the rebellion. The President recognized the danger that the militia thus organized might develop "insurrectionary" purposes, for he suggests that in that case the federal military would be

there to suppress them. How they could be there to suppress the militia raised to enable the government to withdraw them from there is certainly most confusing.

In November the governor offered to bargain with the President that, if he would order the United States troops from the State, the legislature would extend to freedmen the right to testify in court.

Provisional Governor Johnson, of Georgia, telegraphed the President November 1, as follows: —

> No members of Congress elected can take the oath. Shall I issue certificates of election? The legislature will probably be to some extent impracticable and refractory. I am inclined to think a suspension of pardons might have a salutary effect.

The President responded, advising that "no certificates of election to members of Congress elect be issued for the present."

Provisional Governor Hamilton, of Texas, telegraphed the President February 11, 1866, that the radical Union men were in the minority in the convention in that State.

CHAPTER XCV

Results of the Johnson Policy. — Ex-Rebels in Control of the Conventions and Legislatures. — They act without Pressure from Northern Radicalism. — Unfriendly Legislation concerning the Freedmen.

THE record contained in the preceding chapter establishes the fact that Mr. Johnson's policy had utterly failed to place the work of reconstruction in the rebel States in the hands of the loyal people thereof, or of men well disposed to the government of the United States. The oath of allegiance, including the oath to respect all laws and proclamations of the federal government concerning slaves, had not operated as a barrier against its implacable enemies. By this it is not meant that any of the Southern people contemplated a renewal of hostilities against the government. They undoubtedly accepted the Union as an accomplished fact, and yielded their enforced consent to the maintenance of such federal laws as they could not evade on the pretense of their unconstitutionality. We have already seen that in some cases the States ratified the anti-slavery amendment upon the condition that it should not be enforced by federal legislation. Those who had been excluded by the President from the benefits of his amnesty proclamation were not even embarrassed by it. They made themselves candidates for seats in the legislatures and in the conventions, and, the

President being furnished with lists of such persons by the provisional governors, promptly extended to them by the wholesale the pardon which gave them front instead of "back seats in the work of reconstruction." To make a long story short, there did not seem to be any material difference politically between the rebel state governments which were snuffed out with the Confederacy, and the provisional state governments, known as the Johnson governments, which came into existence during the summer and autumn of 1865.

The legislatures of North Carolina, South Carolina, Mississippi, and Alabama convened before the assembling of Congress in December, 1865. The character of their legislation fully realized the gloomiest expectations of the so-called "radicals" of the North, designated by the President in his communications with his new political associates as the "adversary." At that time there had been no session of Congress since the 4th of March, — nine months before, and more than a month before Lee's surrender. Nothing had been done, therefore, by that body calculated to irritate the defeated rebels. The government had only spoken to them through the President, — Mr. Lincoln first and then Mr. Johnson. Mr. Lincoln's single public address of April 12 was full of his accustomed kindness and consideration. It was an appeal for peace and an era of good feeling. Mr. Johnson while Vice-President gave utterance in several interviews to very severe language against those who had been in rebellion. To Governor O. P. Morton and other citizens of Indiana he said, on the 21st of April, 1865: —

Treason against a State, treason against all the States, treason against the government of the United States, is the highest crime that can be committed, and those engaged in it should suffer all penalties. . . . It is not promulging anything that I have not heretofore said, to say that traitors must be made odious, that treason must be made odious, that traitors must be punished and impoverished. They must not only be punished, but their social power must be destroyed. If not, they will still maintain an ascendency, and may again become numerous and powerful; for, in the words of a former senator of the United States, "when traitors become numerous enough, treason becomes respectable." [1]

To a number of Southern refugees he said, April 24, 1865: —

Surely the Constitution sufficiently defines treason. It consists in levying war against the United States, and in giving their enemies aid and comfort. With this definition it requires the exercise of no great acumen to ascertain who are traitors. It requires no great perception to tell us who have levied war against the United States, nor does it require any great stretch of reasoning to ascertain who has given aid to the enemies of the United States. And when the government of the United States does ascertain who are the conscious and intelligent traitors, the penalty and the forfeit should be paid.

These extreme utterances alarmed some of the most radical, for they seemed to foreshadow wholesale prosecutions and executions.

But Mr. Johnson entertained and expressed far different views as his experiments towards civil governments in the South progressed during the summer and

[1] John C. Breckenridge, of Kentucky.

fall. Long before the assembling of Congress, it had become perfectly evident that he had conquered his prejudices, and was looked upon in the South as the deliverer of its people from even the reasonable restraints which they had expected the victorious nation to place upon them. Northern opinion as expressed through the press was, of course, divided, — some insisting upon constitutional amendments which should give permanent guarantees of protection to the freedmen, to the public creditors, and to the integrity of the nation itself. But the general tone of Northern feeling was that of great relief from the tension of the war, and faith in the speedy restoration of tranquillity throughout the land.

Under such conditions the newly chosen Southern legislatures, free from all external pressure, proceeded during the autumn of 1865 to make laws to meet the new relations between the white and black races. The State of Mississippi enacted laws, some provisions of which are here cited as representative of what the defeated slave power believed could yet be done for the subjection of those who had been made free by the Emancipation Proclamation of Mr. Lincoln, — now certain to be supplemented by the ratification of the anti-slavery amendment to the federal Constitution.

"An act to regulate the relation of master and apprentice, and relative to freedmen, free negroes, and mulattoes," passed November 22, provided that the probate courts should apprentice all negro orphans, and all whose parents did not provide for them, under the age of eighteen, to some competent and suitable person,

"provided that the former owner of said minors shall have preference" when deemed suitable by the court. The act provided for moderate corporal punishment by the master, and punishment also for leaving him.

The vagrant act, passed November 24, provided among other things that all freedmen, free negroes, and mulattoes over the age of eighteen found without any lawful employment or business should be deemed vagrants and fined fifty dollars, and imprisoned not exceeding ten days. Justices of the peace, mayors, and aldermen of incorporated towns were given jurisdiction to try vagrants and punish them as above. All negroes between the ages of eighteen and sixty were, under penalty of a fine, to pay a tax of a dollar annually to the Freedmen's Bureau Fund for the support of free negroes and mulattoes. Any free negro or mulatto failing to pay any tax or fine under the act was to be hired out by the sheriff "to any person who will for the shortest period of service" pay said tax, fine, or forfeiture, and all costs.

An act "to confer civil rights on freedmen" was passed November 25. It allowed freedmen to sue in courts, "provided that the provisions of this section shall not be so construed as to allow any freedman, free negro, or mulatto to rent or lease any lands or tenements, except in incorporated towns and cities, in which places the corporate authorities shall control the same." Under this proviso the negro could not rent a patch of land in the country on which to raise food, either for his own consumption or for sale. Every freedman was required to have a lawful city home or

employment, to be evidenced by an official license or a written labor contract. All contracts for labor made with negroes for a longer period than one month were to be in writing, and if one should quit the service of his master before the expiration of his time of service, without good cause, he was to "forfeit his wages for that year up to the time of quitting." But this was not all. Every civil officer, and every person, was authorized to arrest and carry back to his master any free negro thus quitting his or her master, and was to receive for such arrest five dollars, and also ten cents per mile, to be paid by the master and kept back from the negro's wages. Warrants could be obtained by which the fugitive laborer could be pursued into any county in the State and returned to his master. Another section provided that any person giving to such deserting free negro any food, raiment, or other thing, should be punished by a fine of at least twenty-five dollars, and, if not immediately paid, be imprisoned for two months in the county jail.

Another act, of November 29, prohibited any free negro from keeping any weapons at any place without a license. "Insulting gestures" by any free negro were made punishable by a fine of not less than ten dollars, and he might be imprisoned not exceeding thirty days. And, finally, the entire black code of the State, "defining offenses and prescribing the mode of punishment for crimes and misdemeanors committed by slaves, free negroes, or mulattoes," was reënacted, as it had existed in the days of slavery. Any default in the payment of a fine was to be followed by the hiring out

of the offender by the sheriff at public outcry to any person who would pay the fine and costs and take the negro for the shortest time.

The act to "confer civil rights upon freedmen" made it lawful for any negro to charge any white or black person with any criminal offense against him or his property. "In order to more fully confer" these "civil rights upon freedmen," a law was passed a week later, supplementary to this, in which it was provided that "in every case where any white person has been arrested and brought to trial by virtue of the provisions of the tenth section of the above recited act" (to confer civil rights upon freedmen), "upon sufficient proof being made to the court or jury upon the trial before said court that any freedman, free negro, or mulatto has falsely and maliciously caused the arrest and trial of said person or persons, the court shall render up a judgment against such freedman, free negro, or mulatto for all the costs of the case, and impose a fine not to exceed fifty dollars, and imprisonment in the county jail not to exceed twenty days." Then followed a short provision for selling the labor of the negro at auction by the sheriff to whoever would pay the fine and costs for the shortest time of service.

McPherson's "History of Reconstruction" contains many of the acts passed by these governments in 1865 and 1866. Those of Mississippi are here cited because it is presumed that Congress had information of them upon the assembling of its regular session in December, 1865, and that upon such information it ordered an investigation of Southern affairs by a joint committee on reconstruction.

CHAPTER XCVI

The Conflict between Congress and the President. — The Latter demands the Admission of Senators and Representatives from the Late Confederate States before the Establishment therein of Lawful State Governments. — Claims Recognition of the Provisional Governments established by himself under Military Rule Regardless of the Action of Congress.

CONGRESS met on the 4th of December, 1865. Among its first proceedings was the reading in the House of Representatives of a dispatch to Secretary Seward from the provisional governor of Alabama, stating that the legislature in that State had ratified the anti-slavery amendment. He referred to the fact that Alabama was the twenty-seventh State, making the requisite three fourths.

It was well known that the newly assumed attitude of the President was that reconstruction was then complete; that the States lately in rebellion were then as fully entitled to representation in the two houses of Congress as though they had never been in rebellion, and that no power over the subject existed in Congress beyond the power to judge of the election, returns, and qualifications of senators and members from those States. The President's attitude had been foreshadowed in a speech made by Secretary Seward at his home in Auburn during the preceding autumn, in which he treated the restoration of the rebel States as complete,

and Congress as having no other voice in the matter than to pass upon the credentials of the senators and members-elect.

On the other hand, it was the opinion of the Union members of the two houses, with very few exceptions, that none of these States were entitled to representation in Congress until their temporary governments had been made permanent by the approval of that body, and thereby recognized as being republican in form, and as the work of the people of the State. This extended the issue beyond the mere eligibility of senators and representatives to the eligibility of the States themselves for representation. This view was concurred in by Mr. Stanton, and by him maintained to the end with all the force of his powerful personality.

The Republicans of the House conferred upon this subject before the opening of the session, and agreed upon the course Congress ought to pursue. This course was made known on the first day by the introduction of the following resolution in the House by Mr. Thaddeus Stevens, of Pennsylvania: —

Resolved, By the Senate and House of Representatives in Congress assembled, That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six members of the Senate, who shall inquire into the condition of the States which formed the so-called Confederate States of America, and report whether they or any of them are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise; and until such report shall have been made and finally acted upon by Congress, no member shall be received into either House from any of the said so-called Confederate

States; and all papers relating to the representation of said States shall be referred to the said committee without debate.

This was at once adopted under a suspension of the rules, by a vote of 133 to 36. It was amended in the Senate by striking out all after the word "otherwise." This was because the Senate was unwilling to commit itself to allowing the other House any voice in the question of seating senators. The House accepted the Senate amendment, so that as the resolution stood when adopted by both houses, it provided for a joint committee of inquiry into the condition of the late rebel States, and a report by that committee, by bill or otherwise, as to whether any of them were entitled to representation in Congress. As this left the question of the eligibility of the States an open one, it committed all who voted for it against the admission of any senators or members from any of these States until it should be ascertained that valid state governments existed therein. The vote in the Senate stood 33 to 11.

The action of the House was taken before the President had communicated his annual message, which did not come in until the second day of the session. There was some strategic advantage to the House in the fact that its position on the subject of reconstruction was not taken in opposition to any official utterance by the President of his views, while his message, coming in afterwards, raised a direct issue with that body. The passage in the President's message which embraced his position was as follows:[1] —

[1] It will be observed that with all his vaunted devotion to state rights, he took the ground that, but for the adoption of the anti-slavery amendment, the States in question would not have been entitled to representation.

The amendment to the Constitution being adopted, it would remain for the States, whose powers have been so long in abeyance, to resume their places in the two branches of the national legislature, and thereby complete the work of restoration. Here it is for you, fellow citizens of the Senate, and for you, fellow citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members.

This was certainly true as far as it went. But what it omitted was of vastly more consequence in the discussion than what it contained. Of course "it would remain for the States" to "resume their places" in Congress, and of course that could alone "complete the work of restoration." It was also true that they could resume their places in Congress only by the consent of that body. It was true, as he said, that it was for the Senate and House respectively to decide upon the credentials of members from these States. The vital truth and legal proposition omitted by him was the fact that if claims to seats in Congress were rejected on the ground that the state governments, through the agency of which senators and members had been chosen, were not legal and valid, then this decision was binding upon all the other departments of the government.

A declaration by Congress that no legal state government existed in any or either of the States which had been in rebellion would be binding upon the President, and from that time he would have no more right to recognize these discredited state governments than he would have had, during the rebellion, to recognize the state governments of the Confederacy. This view of

constitutional law had been laid down by the Supreme Court of the United States more than twenty years before, in the case of Luther *v.* Borden, reported in 7 Howard, 1, Chief Justice Taney rendering the opinion of the court. The following extract from this opinion utterly denies the pretensions upon which Mr. Johnson based his issue with Congress, and completely sustains the power of Congress over the whole subject of determining what government is established in a State: —

> The fourth section of the fourth article of the Constitution of the United States provides that the United States shall guarantee to every State in the Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature or of the executive (when the legislature cannot be convened) against domestic violence.
>
> Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For, as the United States guarantees to each State a republican form of government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not. And when senators and representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding on every other department of the government, and could not be questioned in a judicial tribunal.

This case arose out of what was known as the Dorr Rebellion in Rhode Island in 1842, in which an attempt was made, under the leadership of Thomas W. Dorr, to establish a state government, under a new constitution,

in opposition to the state government under the old charter. Rhode Island had never adopted a constitution, but had continued the form of government established by the charter of Charles II. in 1663. The rebellion was unsuccessful, and no senators or members were ever elected under the pretended new state government. And, therefore, the court said, "Congress was not called upon to decide the controversy; yet the right to decide is placed there, and not in the courts."

Upon the constitutional authority of the general government to interfere in the domestic affairs of a State, the court said that "the Constitution of the United States, so far as it provided for an emergency of this kind and authorized the general government to interfere in the domestic concerns of a State, has treated the subject as political in its nature, and placed the power in the hands of that department." That Congress is the political department of the government has always been held by the Supreme Court, and has never been called in question.

The issue was now fully joined between Congress and the President. That issue was whether civil power in the lately rebel States had already lawfully and irrevocably passed into the hands of the leaders of the rebellion, or whether the military authority of the United States could lawfully continue until state governments could be established which would be approved by Congress as republican in form and as having been legally adopted by the people.

The congressional resolution to which reference has been made rendered it perfectly apparent that the John-

son governments would not be recognized, nor senators or members representing their authority be admitted to seats in Congress, until some guarantee should be given, by further constitutional amendment, for the protection of the lives and rights of all the people, white and black, who by their support of the government had excited the hostility of those in rebellion. The debates in Congress and the discussions throughout the country very soon made it clear that those in the South who had made war upon the government, and those in the North who had, either openly or covertly, sympathized with them, were arrayed on the side of the President and constituted a political party under his leadership; while all who had supported the government during the war, with very few exceptions, and those almost invariably either persons holding office or seeking office under the President, were arrayed on the side of Congress. It seems to have been the President's idea that if the extremists of the late Southern Confederacy could control all the Southern States, that fact would serve as a great stimulant to their friends in the other States to elect enough senators and members, joined with them, to secure the control of the government. General Grant testified concerning this before the Committee on the Judiciary of the House of Representatives, on the 18th of January, 1867.

Being asked by Mr. Boutwell, —

Have you at any time heard the President make any remark in reference to admission of members of Congress from rebel States into either House? —

he replied, —

I cannot say positively what I have heard him say on that subject. I have heard him say as much perhaps in his public speeches last summer as I ever heard him say upon that subject. I have heard him say — and I think I have heard him say it twice in his speeches — that if the North carried the elections by enough members to give them, with the Southern members, a majority, why would they not be the Congress of the United States? I have heard him say that several times.

Mr. Williams asked him: —

When you say "the North," you mean the Democratic party of the North; or, in other words, the party enforcing his policy?

General Grant answered: —

I mean if the North carried enough members in favor of the admission of the South. I did not hear him say that he would recognize them as Congress. I merely heard him ask the question, "Why would they not be the Congress?"

General Grant further said: —

I heard him say that in one or two of his speeches, I do not recollect where.

Mr. Boutwell asked him: —

Have you heard him make a remark kindred to that elsewhere?

General Grant replied: —

Yes. I have heard him say that, aside from his speeches, in conversation. I cannot say just when. It is probable about the same time.

It was obvious that those who had engineered the Southern Confederacy had high hopes at this time of soon controlling the government of the United States.

Their motive was to escape from the consequences of the war, and to transfer the humiliation of their defeat to those by whom they had been vanquished. To accomplish this they wrought with both the force and finesse of which so many among them were masters. Their force had been used in that aggressiveness in the elections in their States which made opposition to them seem puerile and absurd. Their finesse displayed itself in turning the head of the President by seeming to accept his leadership, and to have forgotten his violence towards them in the past. The fourteen classes who had been excepted from amnesty in his proclamation, and to whom, in that instrument, he gave assurance that special applications would be favorably considered, swarmed around him, some in person and more by letter. Many of these were among the foremost men in the South. To have them pay court to him, receive favors at his hands, and profess to feel under high obligations to him, was doubtless most gratifying. He had never been of their class. He rather prided himself on his humble origin, and publicly recited in his speeches his early life as "a tailor" and his small beginning as "an alderman in his native village." To himself he appeared as "the stone which the builders rejected," but which they now accepted as "the head of the corner." Add to these suppliants the political parasites and mercenaries who sought offices and contracts under the government, and that large portion of the commercial element of the North which in the interest of trade desired the pacification of whichever seemed likely to be the most turbulent party, and it no doubt seemed to him that he was carrying the country with him.

CHAPTER XCVII

The President continues Military Rule in the States which he declares to be restored to all their Original Rights. — Treats them as still in Rebellion by refusing to annul the Suspension of the Writ of Habeas Corpus. — Veto of the Freedmen's Bureau Bill. — His Assault upon Congress. — His Mob Speech at the White House. — Denounces Congressional Leaders by Name. — Congress declares the Ineligibility at that Time of Southern States to Representation.

We now come to the consideration of the legislation of Congress for the protection of the rights of persons in the South. In this connection it is well to keep constantly in view the fact that the President continued to exercise military authority in that region, and to deal with the people there as being still in insurrection. On the 1st of December, 1865, he issued a proclamation, in which, after referring to the suspension of the writ of habeas corpus throughout the United States by President Lincoln in 1863, he declared that the "suspension aforesaid and all other proclamations and orders suspending the privilege of the writ of habeas corpus in the States and Territories of the United States are revoked and annulled excepting as to the States of Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, and Texas, the District of Columbia, and the Territories of New Mexico and Arizona." As the privilege of the writ of habeas

corpus can be suspended under the Constitution only when, "in cases of invasion or rebellion, the public safety may require it," this declaration continuing the suspension of the writ in the States and other places named was the best evidence that seven months after the cessation of hostilities he did not consider the state of rebellion as having ended. On the 2d of April, 1866, four months later, he issued a proclamation declaring the rebellion at an end in all of the late rebel States except Texas, and yet he continued martial law and trials by military tribunals during the rest of the month.

Notwithstanding all this, on the 18th of December, 1865, the President, in reply to a message of the Senate of the 12th, had informed that body that the rebellion had been suppressed; that "the people in North Carolina, South Carolina, Alabama, Mississippi, Louisiana, Arkansas, and Tennessee had reorganized their respective state governments, and that in nearly all of them measures had been adopted or were pending to confer upon freedmen rights and privileges which were essential to their comfort, protection, and security." He referred to disorders local in character, and not frequent in occurrence, resulting from the demoralizing effects of the war. He reported a generally favorable condition of affairs.

His message was accompanied by a report made to him by General Grant, who, after a tour of inspection through some of the Southern States, reported that "the mass of thinking men of the South accept the present situation of affairs in good faith." He thought,

however, that the war had left "the people possibly in condition not to yield that ready obedience to civil authority the American people have generally been in the habit of yielding. This would render small garrisons throughout the States necessary until such time as labor returns to its proper channels and civil authority is fully established."

He further said: —

> I did not meet any one, either those holding office under the government, or citizens of the Southern States, who think it practicable to withdraw the military from the South at the present. White and black mutually require the protection of the government.

He thought the mere presence of a military force, without regard to numbers, would be sufficient to maintain order. He considered the Freedmen's Bureau an absolute necessity in some form until civil law was established and enforced, securing to the freedmen their full rights of protection.

He said furthermore: —

> It cannot be expected that the opinions held by men of the South for years can be changed in a day. And, therefore, the freedmen require for a few years not only laws to protect them, but the fostering care of those who will give them good counsel, and in whom they can rely.

The first measure passed by Congress relating to Southern affairs was "An Act to amend an Act, to establish a Bureau for the Relief of Freedmen and Refugees and for other purposes." This was a bureau in the War Department, created by the act of March

3, 1865. To it was committed the supervision and management of all abandoned lands, and the control of all subjects relating to refugees and freedmen in rebel States. The bill was manifestly adapted only to a military condition of affairs. The President vetoed it February 19, 1866, on the ground that the rebellion was at an end, although the privilege of the writ of habeas corpus — sacred except in cases of rebellion and invasion — continued, by his will, to be suspended until the following April. He also objected to the bill because at the time of its passage there were no senators or representatives in Congress from the eleven States mainly to be affected by its provisions. He referred to the right of representation, and said: —

> I would not interfere with the unquestionable right of Congress to judge, each House for itself, "of the elections, returns, and qualifications of its own members." But that authority cannot be construed as including the right to shut out, in time of peace, any State from the representation to which it is entitled by the Constitution.

He assumed the position that as the President is chosen by the people of all the States, and that as the late rebel States were not then represented in Congress, "it would seem to be his duty on all proper occasions to present their just claims to Congress," or, in other words, to act as their representative before Congress. He lectured Congress upon its duty in this regard "in the interest of peace," and said: —

> It is plain that an indefinite or permanent exclusion of any part of the country from representation must be attended by a spirit of disquiet and complaint. It is unwise and dan-

gerous to pursue a course of measures which will unite a very large section of the country against another section of the country, however much the latter may preponderate.

And, finally, he said: —

The bill under consideration refers to certain of the States as though they had not "been fully restored in all their constitutional relations to the United States." If they have not, let us at once act together to secure that desirable end at the earliest possible moment. It is hardly necessary for me to inform Congress that, in my own judgment, most of these States, so far, at least, as depends upon their own action, have already been fully restored, and are to be deemed as entitled to enjoy their constitutional rights as members of the Union.

This was a pronounced and aggressive intrusion upon the field which Congress only could properly occupy. As Congress alone could decide the question he was discussing, he would be bound by whatever decision Congress might make; and that question was not whether the rebellion had destroyed the right of the rebel States to representation, but whether those States had legally constituted governments through which elections of senators and members of Congress could be provided for, and their election certified.

The language quoted was not only disturbing, but, under the conditions then existing, it aroused an apprehension that he desired to provoke disturbance.

The veto message was dated the 19th of February. On the 21st a vote was taken in the Senate on passing the bill over the veto. The yeas were 30 and the nays 18, and so the bill was lost for the want of a two thirds vote.

The two Houses promptly met the President's challenge on the subject of the right of the unorganized States to be then represented. On the day following the veto, Mr. Stevens, of the committee on reconstruction, reported the following concurrent resolution: —

Resolved, By the House of Representatives, the Senate concurring: That, in order to close agitation upon a question which seems likely to disturb the action of the government, as well as to quiet the uncertainty which is agitating the minds of the people of the eleven States which have been declared to be in insurrection, no senator or representative shall be admitted into either branch of Congress from any of said States until Congress shall have declared such State entitled to such representation.

On this the vote in the House stood 109 yeas and 40 nays. The Senate did not act upon the resolution until March 2, when it was adopted by a vote of 29 yeas and 18 nays.

Between the date of the action of the President and that of the Senate, an extraordinary demonstration had been made by the former. On the 22d of February, the day following the vote in the Senate of 30 to 18 in favor of the passage of the Freedmen's Bureau Bill, notwithstanding the President's objections, the latter made a speech from the steps of the White House in response to resolutions indorsing his policy which had been presented to him by a political committee. During the course of his speech, he said that "the rebellion had been put down by the strong arm of the government in the field," and that "we are now almost inaugurated into another rebellion." Referring to the

resolution of Congress just quoted, he declared it to be the work of an "irresponsible central directory," referring to the joint committee on reconstruction. This resolution, which the House of Representatives had adopted by an overwhelming majority, he treated as the work of that committee, which he declared had thereby virtually taken away from the two respective branches of the national legislature that great principle under the Constitution which makes the Senate and House the judges of the elections, returns, and qualifications of their own members. He declared that the resolution assumed that the States were out of the Union, while, in fact, it had been settled that the "States had neither the right nor the power to go out of the Union."

Of course this was a mischievous and confusing perversion of what the resolution did really contain. A State may be "in the Union" without a state government through the authority of which senators and representatives can be chosen. This very condition then existed in the South. Mr. Johnson himself had declared, in all his proclamations appointing provisional governors and authorizing elections in these States, that the war had left them without any civil government whatever. The question whether legal state governments had since been established in these States was one which he was as powerless to decide as any private citizen in the land. He could report to Congress the steps he had taken as military ruler to enable the people to move in the direction of creating new state governments. Beyond that he could not go. He himself

had informed two of his provisional governors that the work of restoration must be submitted to Congress and be entirely temporary and provisional until approved by that body. For him to take a contrary position now was not only to violate the Constitution, but was the grossest self-stultification.

After naming certain of the leading rebels in his speech, he said: —

> But when I perceive, on the other hand, men still opposed to the Union, I am free to say to you that I am still with the people.

Here the President was called upon to give the names of the men referred to as being opposed to the Union, to which he responded: —

> The gentleman calls for three names. I am talking to you, my friends and fellow citizens here. Suppose I should name to you those whom I look upon as being opposed to the fundamental principles of this government, and as now laboring to destroy them. I say Thaddeus Stevens, of Pennsylvania; I say Charles Sumner, of Massachusetts; and I say Wendell Phillips, of Massachusetts.

He became very much excited as he progressed, and charged that efforts were being made to have him assassinated. His speech was exceedingly inflammatory.

The Freedmen's Bureau Bill was supported by Mr. Stanton in the Cabinet, and he advised the President against the veto of it. This fact was announced by him in the President's hearing in a public serenade speech on the 23d of May, 1866.

CHAPTER XCVIII

Trumbull's Civil Rights Bill a Peace Offering. — Supposed by him to be Satisfactory to the President. — Its Passage and Veto. — Passed over the Veto.

WHILE these exciting events were occurring, subcommittees of the joint committee on reconstruction had been busily engaged in taking testimony on the condition of affairs in the South. The whole committee was as follows: —

Senators Fessenden, of Maine, Grimes, of Iowa, Harris, of New York, Howard, of Michigan, and Williams, of Oregon.

Representatives Stevens, of Pennsylvania, Washburne, of Illinois, Morrill, of Vermont, Bingham, of Ohio, Conkling, of New York, and Boutwell, of Massachusetts.

Partial reports of the testimony were made from time to time and printed. The testimony was conclusive of the fact that the white unionists as well as the freedmen in the South were mainly dependent upon the military authorities for the protection of their lives and of their plainest civil rights.

On the 5th of January Senator Trumbull, of Illinois, introduced "a bill to protect all persons in the United States in their civil rights." The bill was referred to the judiciary committee, of which Mr. Trumbull was the chairman. On the 11th of January he reported it

back to the Senate with amendments and a recommendation that it pass. After full debate the bill passed the Senate February 2 by a vote of 33 to 12. It passed the House March 13 by 111 to 38. The President vetoed the bill on the 27th of March. Mr. Stanton advised its approval. The Senate passed it over the veto on the 6th of April by a vote of 33 to 15, and the same action was taken by the House on April 9 by a vote of 122 to 41.

The bill had been carefully drawn by Mr. Trumbull, one of the ablest lawyers of the Senate, and, indeed, of the whole country. In his speech upon the veto, of April 4, he based the power of Congress to pass the bill upon the second section of the Thirteenth Amendment, abolishing slavery, which conferred upon Congress the power to enforce that amendment by appropriate legislation. He said: —

> Whatever may have been the opinion of the President at one time as to "good faith requiring the security of the freedmen in their liberty and their property," it is now manifest, from the character of his objections to this bill, that he would approve no bill that would surely accomplish the object. That the second clause of the constitutional amendment gives this power, there can be no question.

Mr. Trumbull was a moderate man, conservative in his opinions and temperate in their expression. He was a man of marked individuality, and was never forced or hurried into the support of any measure at the behest of his party. It therefore meant a great deal for him to say of the President that the "character of his objections to this bill made it manifest that he

would approve no measure" that would accomplish the object of securing to the freedmen their liberty. According to his view, the Civil Rights Bill might properly have been entitled a bill to enforce the Thirteenth Amendment, abolishing slavery. He believed that the legislatures of the Johnson governments in the South had set this amendment at naught, and that unless protected the blacks would not, in fact, be freedmen. The disabilities thus sought to be imposed upon them created a new form of slavery, — not one which made slaves of individuals, but one which subjected the black race to the white race. He said: —

> If the bill now before us, and which goes no further than to secure civil rights to the freedmen, cannot be passed, then the constitutional amendment proclaiming freedom to all the inhabitants of the land is a shadow and a delusion.

As to the necessity for such legislation by Congress, he cited a report from Texas, dated December 15, 1865, stating that the pass system of slavery days was still in force, and that freedmen found at large without a pass were "taken up and whipped." He cited legislative enactments of Mississippi prohibiting the holding, leasing, or renting of real estate by freedmen, and giving mayors and boards of police the authority to prevent freedmen from doing any independent business. He quoted from an order from Major-General Terry at Richmond as late as January 24, 1866, in which that officer, referring to the vagrant law just passed, said: —

> The ultimate effect of the statute will be to reduce the freedmen to a condition of servitude worse than that from which they have been emancipated, — a condition which will be slavery in all but name.

As to the President's denial of the rightful power of the United States to interfere for the protection of freedmen against such hostile legislation, he cited very recent military orders, issued under presidential authority, in which were embodied, as he said, the very provisions of this bill. He quoted from an order of January 12, 1866, to Major-General Canby at New Orleans, which directed the discontinuance of all prosecutions in state courts against colored persons charged with offenses for which white persons were not prosecuted. District commanders were by him required to enforce the order, which was based upon one which had been issued by General Grant for the protection of colored persons being discriminated against by the courts.

He quoted General Terry as having directed that no magistrate in Virginia should apply the provisions of the vagrant law to any colored person in that department. He quoted an order issued by General Sickles as late as January 17, 1866, in North Carolina, in which he prohibited penalties for the freedmen different from those applied to the whites, and on the 4th of March of that year he had ordered that provost or military courts should continue in operation and have exclusive jurisdiction in all cases where negroes were concerned until these should be admitted to "the state courts as parties and witnesses with the same rights and remedies accorded to other persons."

He explained that the pending measure simply defined crimes against the Thirteenth Amendment, and properly conferred jurisdiction upon the federal courts to try the offenders.

A most important part of Mr. Trumbull's speech was that in which he declared that the bill "was proposed with a view to carry out what we supposed to be the views of the President, and was submitted to him before its introduction in the Senate." He referred to the "difference of opinion between the President and some members of Congress in regard to the condition of the rebel States and the rights to be secured to freedmen." He sought to promote harmony between them, and had frequent interviews with the President for that purpose. He had prepared the Civil Rights Bill in the belief that it would relieve anxiety in the North and induce the Southern States to secure the civil rights of all by local laws, "and thereby remove many obstacles to an early reconstruction." A copy of the Civil Rights Bill was furnished the President, with the request that if "he had any objections to any of its provisions, he would make them known to its friends, that they might be remedied if not destructive of the measure." The President never indicated the least objection. "The bill was framed," said Senator Trumbull, "as was supposed, in entire harmony with what he was then and has since been doing in protecting freedmen in their civil rights all through the rebellious States." It conferred no political privileges and interfered with none. It merely declared equality of civil rights among all classes of citizens, and equality in the punishment of offenses.

Mr. Trumbull then asked: —

In view of these facts, who is it that is breaking down the barriers of the States and making strides towards centralization? Is it Congress, by the passage of this bill, or the

President, who, without law, is arrogating to himself far greater powers than any conferred by the bill?

The debates demonstrated that while the President was apparently contending for the rights of all the States lately in rebellion, and was professing to defend their provisional governments in all the rights enjoyed by the established governments of the other States, he had, in fact, held them all in subjection to his own personal will, as a military dictator, from the time of his accession to office up to the very time of the veto of this bill. He had measured out to them the powers they might exercise, and had withheld all other powers at his pleasure. He had, without other authority than that of pure military power, appointed provisional governors for them, bound by no statute, either federal or state. Through these provisional governors he had permitted those who were white voters under the old laws to vote for constitutional delegates if they would take the oath prescribed by him, which included obedience to the Emancipation Proclamation, — a purely military measure. He denied the right of any man in these States to vote unless he secured pardon by taking the oath. All others he claimed he had the right to outlaw. When conventions assembled, he dictated to them amendments to the state constitutions and the ratification of an amendment to the federal Constitution. There is no form of despotism under which an emperor's will has been enforced in provinces more fully than were Andrew Johnson's military and arbitrary orders, issued to the people of the South through the rulers he had appointed over them.

But these acts of his created no discontent in the South. On the contrary, the leaders of the rebellion, and all whom they could control, became his obedient and enthusiastic supporters and admirers. They took the oath with alacrity, filled the conventions with those who had been most exasperated by the overthrow of the Confederacy, and rushed through these bodies amendments to the state constitutions, abolishing slavery, repudiating rebel debts, and denying the right of secession. In all cases but one they crowned the proceedings by the ratification of the Thirteenth Amendment to the federal Constitution, though sometimes declaring their opposition to its second section because it gave Congress the power to protect the freedom of the slave.

The eagerness with which the disappointed rebels made these professions of humiliating obedience to hateful conditions was fully explained by the President's letter to Governor Sharkey in August as to what was the surest way to "foil the radicals" and overthrow "the adversary." They simply did the things which they believed would immediately give them civil power, and give their new friend, the President, at once the right to withdraw the military. They would, perhaps, have immediately succeeded in this but for their revival of the black codes, in their impatience to satisfy themselves, as well as the people at large, that emancipation was a failure and the negro still virtually a slave.

CHAPTER XCIX

Divisions in the Cabinet. — A Johnson Party formed. — A Serenade to force Expression from Stanton which might give the President Excuse to remove him. — Stanton's Speech. — He remains in the Cabinet the only Opponent of the "Johnson Policy."

THE bewildering rapidity with which President Johnson had transferred himself from the head of the party of the Union to a position of hostility to it, and of entire amity with enemies lately in rebellion, was confusing to the general mind. Many of the Republican leaders had, during the summer of 1865, predicted that if the Southern people did not meet the President's advances in a proper spirit, and aid him in reëstablishing the Union and guaranteeing justice and liberty in their States, he would be the first to realize the fact and would retrace his steps.

Mr. Stanton became satisfied as early as September, 1865, that under the Johnson policy the civil power of the South was going into the hands of the enemies of the government. He determined, however, to remain at his post and see that the duties directly intrusted to him by law were faithfully performed. When Congress assembled and measures were brought forward for the protection of the white and black unionists of the South, he left the President in no doubt as to his attitude in the great crisis. All cabinet proceedings were

of course secret. There was naturally much speculation as to the standing of various members, and whether or not the Cabinet would hold together.

In May, 1866, a political club was organized in Washington, under the name of the "National Union Club," consisting of the supporters of the President without regard to previous party affiliations. This was the initiative of the attempted formation of a new party of which Mr. Johnson should be the head, and which he hoped would swallow up all of the Democracy, and as many of the Republicans as could be attracted to his standard. The officers of this club determined upon a movement to force the members of the Cabinet to give public expression to their opinions, and to that end they arranged a serenade to the President and his Cabinet on Wednesday, the 23d of May. These high officials accordingly collected at the White House to receive them. The President first appeared, and limited his utterances to thanks for the approbation of the club. Secretary Seward was absent. He had already expressed his full support of the President's course in a speech at his home in Auburn. Secretary Welles, of the Navy Department, expressed his approval of the President's policy. Secretary McCulloch, of the Treasury Department, followed in the same line. Postmaster-General Dennison did not believe the differences between the President and Congress were irreconcilable. He was of the opinion that time and discussion were "bringing the President and Congress rapidly together on a basis of a common platform of action." Mr. Speed, the Attorney-General, excused himself by letter, in which he said that

the want of time and pressing engagements would not permit him to prepare a fitting address. He expressed no opinion. Mr. Harlan, of Iowa, Secretary of the Interior, responded in a letter, in which he said that the newspapers had asserted that the serenade was intended to furnish the heads of departments with an opportunity to announce their opinions on political subjects. He thought it unnecessary for him to do so, as he had been doing it for ten years in the Senate. He should do nothing to defeat, weaken, or demoralize the great Union party.

The only speech which really contained anything of interest was that of Mr. Stanton. It was well understood that the occasion was mainly intended to embarrass him. The hope was entertained that he would be compelled to publicly disclose the wide differences of opinion between himself and the President, and that the divergence between them would be such as in the public mind would justify his removal. Mr. Stanton carefully prepared the speech that he was to deliver on the occasion. It was as follows: —

GENTLEMEN, — On the afternoon of Thursday, the 17th of this month, I received a note from the secretary of the National Union Johnson Club, telling me it was the design of the association to serenade the President and his Cabinet, and that I would be called upon at my residence. Immediately on the receipt of this note, reply was sent to the secretary expressing my thanks for the compliment, and declining the honor of the serenade. A similar compliment by the patriotic association of the Soldiers and Sailors' League had previously been declined. Two reasons induced my action. The last time a public speech was made from this spot in answer to a

serenade was the night of Friday, the 14th of April, 1865. At that moment, when we were rejoicing over the downfall of the rebellion, one of its instruments was murdering Mr. Lincoln. You will not think it strange that a complimentary occasion fraught with such associations should not be coveted. Besides, as the head of a department, my public duties have been simply executive; and it has always been my aim to avoid trenching upon duties devolved upon others, and to avoid mischief by premature discussion of matters intrusted to the legislative branch of the government and under its consideration. But the call of this evening relieves me from any imputation of intruding my opinions upon you. I shall, therefore, declare them briefly and plainly; and to the end that it may be neither accidentally misunderstood nor willfully misrepresented, what it is my purpose to say on this occasion has been written.

After four years of war, the authority of the federal government was established throughout the whole territory of the United States, at a sacrifice of over three hundred thousand lives of loyal soldiers, and a cost of more than three thousand million dollars. Nearly every household in eighteen loyal States is mourning its loved ones slain by rebels; a tax, which may last for generations, is laid upon the food and raiment and necessities of every family, and in the price of their daily bread, the twenty million inhabitants of the loyal States feel, and will long continue to feel, what it cost to uphold their government against rebellion. The office of President devolved upon Mr. Johnson at the death of Mr. Lincoln on the 15th day of April, 1865. Thirteen days before that time Richmond, the seat of the rebel government, had been captured, and six days later the rebel commander-in-chief, Robert E. Lee, routed and vanquished, surrendered his army as prisoners of war to General Grant and the forces under his command. By these rapidly succeeding events the rebel government was overthrown, its strength and hope

exhausted, and, in every State, its armed forces and official authorities gave themselves up as prisoners of war. The President's annual message to the present Congress thus clearly states the condition of the country, and the question thereby imposed upon him: —

"I found the States suffering from the effects of a civil war. Resistance to the general government appeared to have exhausted itself. The United States had recovered possession of their forts and arsenals; and their armies were in the occupation of every State which had attempted to secede. Whether the territory within the limits of those States should be held as conquered territory, under military authority emanating from the President as the head of the army, was the first question that presented itself for decision."

After stating the objections to the continuance of merely military rule, the alternative course, chosen by him and supported by his Cabinet, is thus clearly set forth: —

"Provisional governors have been appointed for the States, conventions called, governors elected, legislatures assembled, and senators and representatives chosen to the Congress of the United States. At the same time, the courts of the United States, as far as could be done, have been reopened so that the laws of the United States may be enforced through their agency. The blockade has been removed and custom houses reëstablished in ports of entry, so that the revenue of the United States may be collected. The Post-Office Department renews its ceaseless activity, and the general government is thereby enabled to communicate promptly with its officers and agents. The courts bring security to persons and property; the opening of the ports invites the restoration of industry and commerce; the post-office renews the facilities of social intercourse and of business."

No one better than Mr. Johnson understood the solemn duty imposed upon the national Executive to maintain the national authority vindicated at so great a sacrifice, and the

obligation not to suffer the just fruits of so fierce a struggle, and of so many battles and victories, to slip away or turn to ashes. In many speeches to delegations from loyal States, in dispatches to provisional governors acting under his authority, there was no disguise of his purpose to secure the peace and tranquillity of the country on just and sure foundations.

These measures received the cordial support of every member of the Cabinet, and were approved by the sentiments declared in conventions in nearly all of the States. One point of difference presented itself, namely, the basis of representation. By some it was thought just and expedient that the right of suffrage in the rebel States should be secured, in some form, to the colored inhabitants of those States: either as a universal rule or to those qualified by education, or by actual service as soldiers who ventured life for their government. My own mind inclined to this view, but, after calm and full discussion, my judgment yielded to the adverse arguments resting upon the practical difficulties to be encountered in such a measure, and to the President's conviction that to prescribe the rule of suffrage was not within the legitimate scope of his power. The plan of organization embodied in the proclamation to the people of North Carolina, and the instructions to the provisional governor of that State, exhibit the system and principles prescribed by the President for the substitution of civil authority in the place of universal military rule in the insurrectionary States. In this plan, two things, presented by the proclamation and by the President's instructions, are worthy of special notice: —

First. That the exercise of the organizing power is specifically and absolutely restricted to the people "who are loyal to the United States, and no others." This is in accordance with the views often declared by Mr. Johnson, from the commencement of the rebellion, and under the most impressive circumstances.

Secondly. The choice of delegates was not only limited to loyal people, and no others, but constitutional guarantees were required in respect to the emancipation of slaves and the repudiation of the rebel debt. A sound reason for such guarantees in respect to slavery is stated by the President in his message, namely, the necessity of "the evidence of sincerity in the future maintenance of the Union."

These views, expressed by the President in his messages, received, and continue to receive, my cordial acquiescence and support. Who are loyal people is a question that ought not to be difficult of decision. After full explanation of the steps taken by him to restore the constitutional relations of the States, the President in his annual message proceeds to state, with equal distinctness, what remains to be done, and to whom the authority and duty of doing it belongs, in the following words: —

"The amendment to the Constitution being adopted, it would remain for the States whose powers have so long been in abeyance to resume their places in the two branches of the national legislature, and thereby complete the work of restoration. Here it is for you, fellow citizens of the Senate, and for you, fellow citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

Whoever doubts that the authority and duty of judging for itself the elections, returns, and qualifications of its members belongs to each House of Congress may have his doubt removed by the federal Constitution, which declares, in the fifth section of the first article, that "each House shall be the judge of the elections, returns, and qualifications of its own members." In thus distinctly recognizing the constitutional rights of each House of Congress to judge of the elections, returns, and qualifications of its members, the President has conformed to the plain letter of the Constitution. It being the function of each House to judge of the elections, returns, and

qualifications of its own members, the obligation is implied of taking testimony, weighing evidence, and deciding the question of membership. What testimony has been taken, or what evidence has been presented on the question to either branch of Congress, or what judgment will be given, is not known to me; nor have I the right of inquiring, for neither the right nor the duty of deciding is devolved upon me. But the course of the President in thus referring the question of its own members to the judgment of each House of Congress received, and continues to receive, my cordial support.

Besides the steps taken by the Executive to restore the constitutional relations of the States, his annual message called the attention of Congress to the necessity of insuring the security of the freedmen, reminding Congress that while he had not doubted that the general government could not extend the elective franchise, "it is equally clear that good faith requires the security of the freedmen in their liberty and their property, their right to labor, and their right to claim the just return of their labor;" and observing further that "the country is in need of labor, and the freedmen are in need of employment, culture, and protection." In connection with this subject the President further remarks: —

"Slavery was essentially a monopoly of labor, and as such locked the States where it prevailed against the incoming of free industry. Where labor was the property of the capitalist, the white man was excluded from employment, or had but the second best chance of finding it, and the foreign emigrant turned away from the region where his condition would be so precarious. With the destruction of the monopoly, free labor will hasten from all parts of the world to assist in developing various and immeasurable resources which have hitherto lain dormant. The eight or nine States nearest the Gulf of Mexico have a soil of exuberant fertility, a climate friendly to long life, and can sustain a denser population than is found as yet in any part of our country. And the future influx of

population to them will be mainly from the North, or from the most cultivated nations in Europe."

These views of the President in relation to the freedmen received, and continue to receive, my hearty concurrence. They have guided the action of the War Department, and were substantially advocated in its annual report. In what I believed an honest desire to conform to them, a bill was passed by Congress regulating the Freedmen's Bureau. But the provisions of the bill did not meet the President's approval, because he believed the powers conferred upon him, and upon the agents to be appointed by him, to be unwise and unconstitutional. Concurring in the object of the bill, and regarding the power as temporary, and safe in his hands, I advised its approval. But having been returned to Congress with the President's objections, and having failed the needful support, it is no longer a living measure, nor the subject of debate or difference of opinion.

Another congressional measure, called the Civil Rights Bill, has been the subject of conflict. That bill, now a law, has for its object the security of civil rights in the insurrectionary States. It was well observed by the President in his annual message, that "peaceful emigration to and from that portion of the country (the Southern States) is one of the best means that can be thought of for the restoration of harmony." Its possible interference with such emigration was one of the chief objections to military rule. And by some it is thought that the influence of class legislation in favor of the slave-holding monopoly heretofore existing in the Southern States would still be strongly exerted to prevent peaceful emigration into those States, and would exclude the laboring population of the North from that soil of exuberant fertility and friendly climate, that productive region embracing the eight or nine States nearest the Gulf of Mexico; and that hence civil rights in those States should be vigilantly protected by federal laws and federal tribunals. Although the

measures enacted by Congress for this purpose failed to receive the executive sanction, yet, having been adhered to by a two thirds vote in each House, they have now passed to the statute-book, and ceased to be the subject of debate.

Another measure or series of measures of prime importance, now pending before Congress, merits a brief remark; namely, the plan of restoration or reconstruction as it is sometimes called. To the plan reported by the joint committee, I have not been able to give my assent. It contemplates an amendment to the federal Constitution, the third section of the proposed article being in these terms: —

"Sec. 3. Until the fourth day of July, in the year one thousand eight hundred and seventy, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for representatives in Congress, and for electors for President and Vice-President of the United States."

It is urged by the advocates of this plan that this third section is the vital one, without which the others are of no value. Its exclusive action will no doubt commend it to the feelings of many as a wise and just provision. But I am unable to so regard it, because for four years it binds Congress to exclude from voting for representatives or presidential electors "all persons who voluntarily adhered to the late insurrection, giving it aid and comfort." No matter what may be the condition of the country, nor what proofs of present and future loyalty may be given, an absolute constitutional bar is to be erected for four years against a large class of persons. Change of circumstances and condition often work rapid change in party or political sentiment; and nowhere with more marked results than in the South. It is believed that elements of change are now at work there, stimulating on one side to loyalty, and on the other tending to continued hostile feelings. In my judgment every proper incitement to union should be fostered and cherished, and for

Congress to limit its own power by constitutional amendment for four years might be deplorable in its results. To those who differ, I accord the same honesty and perhaps greater wisdom than I can claim for myself. As the proposed plan now stands, I am unable to perceive the necessity, justice, or wisdom of the measure. But having no place nor voice in the body before which the measure is pending, I disclaim any purpose to interfere beyond the expression of my own opinion.[1]

Having thus declared my views as they have heretofore been declared to those who had a right to know them, I trust that your purpose on this occasion is answered, and I shall be glad if their expression may have any beneficial influence on questions, the right disposition whereof is a matter of solicitude to every patriotic man, and is deeply important to the peace and tranquillity of the country. Recognizing the constitutional power of all the coördinate branches of the government, — legislative, judicial, and executive, — and entertaining for each the respect which is due from every loyal citizen, they are entitled to and shall receive, according to my best judgment, the support which is required by that Constitution which, after an unexampled conflict, has been upheld and sanctified by Divine favor, and through the sacrifice of so much blood and treasure.

Although Mr. Stanton stated in his speech that he had advised the approval by the President of the Freedmen's Bureau Bill, and of the Civil Rights Bill, both of

[1] The resolution containing the section (3) above quoted had been adopted by the House of Representatives on the 10th of May, by a vote of 128 to 37. It was still pending in the Senate when Mr. Stanton made his speech on the 23d of the same month. It came up for consideration in that body on the 29th, and a motion to strike out the section so strongly objected to by him was unanimously adopted. The measure thus amended was adopted in the Senate by a vote of 33 to 11, and in the House by a vote of 138 to 36.

which the President had vetoed, and had referred with emphasis to the powers of Congress on the subject of representation therein, there was nothing in the manner or matter of the speech that would have justified the President in an open rupture with him. Of course a removal would have been out of the question while the Senate was in session, because that body would not have confirmed a successor.

Congress adjourned on the 27th day of July. During the last few days of its session the Senate had confirmed A. W. Randall, of Wisconsin, as Postmaster-General in place of William Dennison, resigned; Henry Stanbery, of Ohio, as Attorney-General in place of James Speed, resigned; and O. H. Browning, of Illinois, as Secretary of the Interior in place of James Harlan, resigned. Mr. Randall was the president of the Johnson Club which had given the serenade referred to in this chapter. His appointment was a promotion, — evidently for merit as a political organizer. He became the general political manager of the Johnson party, and of a national convention held at Philadelphia in August, which was so largely composed of federal office-holders and office-seekers that it was derisively termed the "Bread and Butter Brigade." Messrs. Stanbery and Browning were lawyers of great ability, and proved themselves to be wholly devoted to Mr. Johnson's policy. All the members of the Cabinet were now in full concurrence with the President, with the exception of Mr. Stanton. Never did any man remain faithful to the performance of great public duties under circumstances more difficult than those which surrounded him from that time to the end of his service.

PART X

RECONSTRUCTION. — THE PLAN OF CONGRESS

CHAPTER C

A Riot in New Orleans. — Its Causes and its Leaders. — A Massacre by Supporters of the President. — Report of General Sheridan.

THE State of Louisiana had the misfortune early to bring forth the evil fruits of President Johnson's policy in the form of a fearful riot at New Orleans, which occurred on the 30th of July, 1866, — only three days after the adjournment of Congress.

A state convention had been held in that State in April, 1864, in pursuance of a proclamation of General Banks, then commanding the Department of the Gulf. It had been called in conformity with the message of Mr. Lincoln of December, 1863. The proclamation stated the object of the convention to be "that the organic law of the State might be made to conform to the will of the people and harmonize with the spirit of the age, as well as to maintain and preserve the ancient landmarks of civil and religious liberty." The convention agreed on a constitution, which was submitted to a vote of the people then residing within the Federal

military lines, and was ratified by them on September 5, 1864. State elections had been held under this constitution, and all the machinery of a provisional state government was in existence under it. The constitution had not been approved by Congress, nor had senators or members of Congress been admitted from the State, which still continued under the military authority of the United States.

The legislature of 1866 had considered a bill to take the sense of the people on the expediency of calling a convention to form a new constitution, and to provide for the election of delegates and for the holding of the convention. It was declared in the preamble of this bill that the constitution of 1864, under which that very legislature was sitting, "was the creation of fraud and violence, and in no sense the expression of the will of the people of the State." This was merely an unfriendly form of expressing the fact that the constitution was framed by Union men in the presence and under the protection of Federal forces then engaged in the suppression of the rebellion. The bill passed the Lower House of the legislature. When it was laid before the Senate telegrams were presented from certain Louisianians then in Washington, who had gone there to consult with President Johnson as to the best course to be pursued. These dispatches were dated March 8, and stated that after interviews with the President and Secretary Seward their authors were satisfied that further agitation of the convention question would seriously embarrass the President's reconstruction policy. The bill was at once laid on the table, and never again

taken up. It should be borne in mind that about two weeks before this action was taken the President had finally separated from his own party, by the veto of the Civil Rights Bill and his speech from the steps of the White House of February 22.

Some time after, another political element in the State made a movement for a change in the constitution. The convention of 1864 had resolved that "when the convention adjourn it shall be at the call of the President, whose duty it shall be to reconvoke the convention for any cause, or, in case the constitution should not be ratified, for the purpose of taking such measures as may be necessary for the formation of a civil government for the State of Louisiana." It was contended by this element that the powers of the convention had not been exhausted by the ratification of the constitution it had framed, and that its authority was still sufficient for a call for its reassembling. The terms of the resolution made "any cause" sufficient which might be so deemed by the president of the convention. That officer declined to preside at a meeting of delegates to the convention held on the 26th of June, assigning as a reason his expected absence from Louisiana. Judge Howell, of the Supreme Court of the State, was elected president *pro tempore*, and issued a proclamation, on the 7th of July, for the reassembling of the convention at Mechanics Institute Building in New Orleans on Monday, July 30, at noon. The proclamation also called upon the governor to issue writs of election to choose delegates to fill vacancies; the provisional governor concurred in this action, and

issued writs for the election to be held September 3. As soon as the whole State should be represented in the convention, the declared intention was to submit to the people certain amendments to the constitution, and if these were ratified, the constitution as amended was to be submitted to Congress for its approval.

The legality of this proceeding was called in question. On the 25th of July the mayor of New Orleans, Monroe, who had been mayor prior to the capture of the city in 1862, called upon General Baird, then in command during the temporary absence of General Sheridan, and informed him that it was his intention to disperse the convention when it attempted to assemble on the 30th, provided the convention was to meet without the sanction of the military authorities. That is to say, unless the military commander would make himself the indorser of the convention, it would be suppressed by the arrest of its members for alleged violation of local laws. General Baird replied that the military commanders had "held themselves strictly aloof from interference with the political movements of the citizens of Louisiana." He said, however, that if the assembly had a legal right to remodel the state government, it should be protected in so doing; if not, its labors would be but harmless pleasantry. He told him he did not understand how the mayor of the city could "undertake to decide so important and delicate a question as the legal authority upon which a convention, claiming to represent the people of an entire State, bases its action." He thought if there was to be any interference, it should be by the governor. He offered

to render any aid necessary to restrain lawlessness and preserve the peace. This was on Wednesday.

On Friday, the 27th, a public meeting was held, advocating negro enfranchisement. It was well understood that this would be adopted by the convention and submitted to a vote of the people. On Saturday, the 28th, the mayor and the lieutenant-governor called upon General Baird, and informed him that the police would not interfere with the convention, but that, on an indictment by the Grand Jury, the sheriff would make arrests. Objection was made to this course by the general, who thought the convention could lawfully assemble, at least; and an understanding was had that each should communicate with the authorities at Washington. Whereupon General Baird telegraphed the Secretary of War as follows: —

A convention has been called, with the sanction of Governor Wells, to meet here on Monday. The lieutenant-governor and city authorities think it unlawful, and propose to break it up by arresting the delegates. I have given no orders on the subject, but have warned the parties that I should not countenance or permit such action without instructions to that effect from the President. Please instruct me by telegraph.

No reply was made to this, and General Baird was left to act upon orders then in force and according to instructions then existing. He had already informed the lieutenant-governor and the mayor that under a recent order of Lieutenant-General Grant, designed for the protection of the citizens of the United States, he would suppress any lawless violence that might occur. On the same day the lieutenant-governor and the attor-

ney-general of the State, who were in agreement with the mayor and other opponents of the convention, telegraphed the President as follows: —

Radical mass meetings composed mainly of large numbers of negroes last night, ending in a riot; the committee of arrangements of said meeting assembling to-night. Violent and incendiary speeches made; negroes called to arm themselves. You bitterly denounced. Speakers: Field, Dostie, Hawkins, Henderson, Hiestand, and others. Governor Wells arrived last night, but sides with the convention movement. The whole matter before the Grand Jury; but impossible to execute civil process without certainty of riot. Contemplated to have the members of the convention arrested under process from the criminal court of this district. Is the military to interfere to prevent process of court?

The President responded on the same day in a dispatch to the lieutenant-governor, as follows: —

The military will be expected to sustain and not to obstruct or interfere with the proceedings of the court. A dispatch on the subject of the convention was sent to Governor Wells this morning.

This was not a military order, nor did the President give any order whatever to General Baird.

On the night of Sunday, the 29th, the police were called together and given orders for the following day. Early on Monday morning, the day of the assembling of the convention, the whole force, numbering between four and five hundred men, were massed at their different stations. They were ordered to come armed. The riot referred to accompanied the assembling of this convention.

On the 4th of August the President telegraphed to General Sheridan, who was in command of the Department of the Gulf, and who had returned to New Orleans after a temporary absence, for information as to the riot. His reply was as follows, under date of August 6: —

I have the honor to make the following reply to your dispatch of August 4. A very large number of colored people marched in procession on Friday night, July 27, and were addressed from the steps of the city hall by Dr. Dostie, ex-Governor Hahn, and others. The speech of Dostie was intemperate in language and sentiment. The speeches of the others, as far as I can learn, were characterized by moderation. I cannot give you the words of Dostie's speech, as the version published was denied, but from what I have learned of the man, I believe they were intemperate.

The convention assembled at twelve M. on the 30th, the timid members absenting themselves because the tone of the general public was ominous of trouble. I think there were about twenty-six members present. In front of the Mechanics Institute, where the meeting was held, there were assembled some colored men, women, and children, perhaps eighteen or twenty, and in the Institute a number of colored men, probably one hundred and fifty. Among these, outside and inside, there might have been a pistol in the possession of every tenth man. About one P. M. a procession of say from sixty to one hundred and thirty colored men marched up Burgundy Street and across Canal Street towards the convention, carrying an American flag. These men had about one pistol to every ten men, and canes and clubs in addition. While crossing Canal Street, a row occurred. There were many spectators on the street, and their manner and tone towards the procession unfriendly. A shot was fired, by whom I am not able to state, but believe it to have been by

a policeman or some colored man in the procession. This led to other shots and a rush after the procession on arrival at the front of the Institute. There was some throwing of brickbats by both sides. The police, who had been held well in hand, were vigorously marched to the scene of disorder. The procession entered the Institute with a flag, about six to eight remaining outside. A row occurred between a policeman and one of these colored men, and a shot was again fired by one of the parties, which led to an indiscriminate fire on the building through the windows by the policemen. This had been going on for a short time when a white flag was displayed from the windows of the Institute, whereupon the firing ceased and the policemen rushed into the building. From the testimony of wounded men and others who were inside the building, the policemen opened an indiscriminate fire upon the audience until they had emptied their revolvers, when they retired and those inside barricaded the doors. A door was broken in and the firing again commenced, when many of the colored and white people either escaped through the door or were passed out by policemen inside; but as they came out the policemen, who had formed a circle nearest the building, fired upon them, and they were again fired upon by the citizens, who formed the outer circle. Many of those wounded and taken prisoners, and others who were prisoners and not wounded, were fired upon by their captors and by citizens. The wounded were stabbed while lying on the ground and their heads beaten with brickbats. In the yard of the building, whither some of the colored men had escaped and partially secreted themselves, they were fired upon and killed or wounded by policemen. Some were killed and wounded several squares from the scene. Members of the convention were wounded by the police while in their hands as prisoners, some of them mortally.

The immediate cause of this terrible affair was the assemblage of this convention. The remote cause was the bitter

and antagonistic feeling which has been growing in this community since the advent of the present mayor, who, in the organization of this police force, selected many desperate men and some of them known murderers. People of clear views were overawed by want of confidence in the mayor and fear of the thugs, many of whom he had selected for his police force. I have frequently been spoken to by prominent citizens on this subject, and have heard them express fear and want of confidence in Mayor Monroe.

Ever since the intimation of this last convention movement I must condemn the course of several of the city papers for supporting by their articles the bitter feelings of bad men. As to the merciless manner in which the convention was broken up, I feel obliged to confess strong repugnance. It is useless to attempt to disguise the hostility that exists on the part of a great many here towards Northern men, and this unfortunate affair has so precipitated matters that there is now a test of what shall be the status of Northern men, — whether they can live here without being in constant dread, and whether they can be protected in life and property and have justice in the courts.

If this matter is permitted to pass over without a thorough and determined prosecution of those engaged in it, we may look out for frequent scenes of the same kind, not only here, but in other places. No steps have as yet been taken by the civil authorities to arrest citizens who were engaged in this massacre, or policemen who perpetrated such cruelties. The members of the convention have been indicted by the Grand Jury, and many of them arrested and held to bail. As to whether the civil authorities can mete out ample justice to the guilty parties on both sides, I must say that it is my opinion unequivocally that they cannot. Judge Abell, whose course I have watched for nearly a year, I now consider one of the most dangerous men that we have here to the peace and quiet of the city. The leading men of the convention,

King, Cutler, Hahn, and others, have been political agitators and are bad men. I regret to say that the course of Governor Wells has been vacillating, and that during the late troubles he has shown very little of the man.

Secretary Stanton replied to this by the following, which was addressed to Major-General Sheridan, on the 7th of August: —

The President directs me to acknowledge your telegram of the 6th in answer to his inquiries of the 4th instant. On the 3d instant instructions were sent you by General Grant, in conformity with the President's directions, authorizing you to "continue to enforce martial law so far as might be necessary to preserve the public peace, and directing you not to allow any of the civil authorities to act if you deem such action dangerous to the public safety, and also that no time be lost in investigating the causes that led to the riot and also the facts which occurred." By these instructions the President designed to vest in you as the chief military commander full authority for the maintenance of the public peace and safety, and he does not see that anything more is needed pending the investigation with which you are intrusted. But if, in your judgment, your powers are inadequate to preserve the peace until the facts connected with the riot are ascertained, you will please report to this department for the information of the President.

On the 13th of August General Sheridan sent the following dispatch to General Grant: —

The military board called by General Baird to investigate the occurrences in this city of July 30 is progressing as rapidly as possible. I see in the papers, by reports of officials here, an attempt made to cast blame on the military for not being present on the 30th. There could have been no object in its being present, except to keep the police from perpe-

trating a revolting massacre. Its absence for this reason I regret. From the accounts of my own scouts, who saw the affair from first to last, from my own officers, and from disinterested and truthful persons I believe that at least nine tenths of the casualties were perpetrated by the police and citizens stabbing and smashing in the heads of many who had already been wounded or killed by policemen.

These events were made the subject of an investigation by the United States House of Representatives through a select committee of that body, consisting of Messrs. Elliott, of Massachusetts, Shellabarger, of Ohio, and Boyer, of Pennsylvania. Testimony was taken at Washington and also in New Orleans; 197 witnesses were examined. Of these 159 were examined at New Orleans, — 47 of them at the request of the citizens of that city; 74 persons testified to the riot and massacre.

The report of the committee verified the facts as stated by General Sheridan.

CHAPTER CI

Further concerning the New Orleans Riot. — Statement by Mr. Stanton. — The Underlying Cause of the Tragedy. — Commencement of the War to prevent Negro Enfranchisement.

THE question will be asked why the military did not interfere to prevent this riot. The reason was stated by General Baird in his testimony before the House committee. He narrated in great detail his intercourse with the mayor and the lieutenant-governor, who was coöperating with the mayor. It had long been the custom to keep the Federal troops outside of the city to avoid any offensive appearance of overawing the city authorities. He had the promise of the mayor that there would be no violence, and no interference with the convention by the police. The arrests, if any, would be made by the sheriff, and not then until the general had indorsed the warrants. He had no doubt that the police, controlled by the mayor, would protect the convention against assault until the troops could come to their assistance. He "did not," he said, "anticipate that the police themselves would become the assailants." On the very morning of the day of the riot he received a call from the lieutenant-governor, with whom he made arrangements that a few companies of troops should be brought into the city, and posted, not adjoining the convention, but at a short distance

from it. The lieutenant-governor assured him that his motives would not be misconstrued, and "parted pleased with the arrangement." The general believed, through misinformation from some source, that the convention was to assemble at six o'clock, and gave orders for four companies of troops to be brought up to the city at an hour before that time. The riot commenced at half past one.

General Baird had simply refrained from assenting to the attack on the convention; had cautioned the mayor against such action, and had expressed his determination to preserve the peace should it be disturbed. He had stated to the Secretary of War the position thus assumed by him, and, as the Secretary had no desire to change it, he made him no reply, and made no communication to the President, as none seemed necessary. Meanwhile the President, unbeknown to the War Department, or to the general of the army, had sent to the lieutenant-governor the dispatch of the 28th quoted in the preceding chapter, encouraging thereby the belief that the convention would have no military protection from any assaults that might be made upon it.

The fact that the telegram from General Baird to the Secretary of War had not been communicated to the President was the subject of subsequent comment and inquiry, and Mr. Stanton made the following statement in regard to it: —

That on the forenoon of Sunday, the 29th of July last, I received at my residence in this city a telegram from General Baird, commanding at New Orleans, a copy of which is hereto

attached. This telegram was the first information communicated to me that a convention was to be held at New Orleans, or that there was any difference or controversy on the subject of a convention or assemblage to be held there. From the telegram of General Baird it appeared that the convention was to meet with the sanction of the governor of Louisiana, that its legality was questioned by persons who proposed to break it up by arresting the members, and that General Baird had warned the city authorities that he would not permit this to be done without instructions from the President, and he applied to me for instructions. There was no intimation in the telegram that force or violence was threatened by those opposed to the convention, or that it was apprehended by General Baird. Upon consideration, it appeared to me that his warning to the city authorities was all that the case then required, for I saw no reason to instruct him to withdraw protection from a convention sanctioned by the governor, and in the event of any attempt at arrest, General Baird's interference would bring up the case with all the facts for such instructions as might be proper, and in the mean time, under his general authority, he would take measures to maintain the peace within his command. On Tuesday, the 31st of July, the morning papers contained telegraphic dispatches in respect to the occurrences at New Orleans, and on the same day I was informed of the communications that had passed between the President and Governor Wells, Lieutenant-Governor Voorhies, and Attorney-General Herron.

However wanting in authority the Louisiana convention of 1864 may have been in 1866, it was at least a body of "the people" exercising their constitutional right "to peaceably assemble and petition for a redress of grievances." Its object was to propose a new constitution for the State, extending the right of suffrage

to the blacks, secure for it if possible the approval of a majority of the loyal people, and then present it to Congress with a petition that it be declared the constitution of the State. The riot was without any other apparent cause than the fear that Congress might heed such a petition. Besides the fear of the result of this particular effort, there was an apparent determination to make an example of those engaged in it.

The rioters were probably mainly composed of the worst elements of the city, who loved violence for its own sake, especially when directed against negroes. To whatever extent it was participated in or countenanced by citizens of respectability, we can well imagine that their feelings had been wrought up by false representations of immediate danger from the violence and lawlessness of the blacks.

As the radical leaders of the Southern people who fomented the rebellion laid aside all hindrances to its success, counting nothing right that stood in their way and nothing wrong that aided them; as they shrunk from no sacrifice and pressed ever forward toward the goal of their hopes; so in defeat, with equal resolution and equal disregard of all consequences, they devoted themselves to saving out of the wreck which war had made their own absolute and undivided political domination in the States they inhabited.

On the other hand, those who had supported the emancipation policy as a war measure could not, in common decency and humanity, leave the slave helpless in the hands of those from whose possession they had wrested him by force. They could not as honorable

men desert four millions of slaves, who, without protection, would be in a condition vastly more miserable than that from which, by no agency of their own, they had been emancipated.

This new issue, like that of slavery itself, was rather ordained by fate than willingly created by either side. Northern statesmen thought they had but two methods to choose from, in attempting to enforce their policy of protection. One was the continuance of military rule; and the other was placing the ballot in the hands of the emancipated slaves. The former was impracticable because of adverse public sentiment in the North, thus rendering the latter imperative.

The Southern leaders had consented to the Thirteenth Amendment, abolishing slavery, and to repudiation, in their state constitutions, of the rebel debt. They had given up their secession doctrine, and annulled their ordinances of secession. They had accepted the amnesty and pardon of the President and taken the oath which it involved. These things they did at the bidding of President Johnson, although each act was regarded by them as doing violence to the rights of their States, which seemed to them unimpaired by the war. But they stooped to conquer. They gained the President to their side by complying with his demands. They thought the power of his administration, and the desire for restoration of trade with the South, would carry enough Northern States, added to their own, to overthrow the Union party of Lincoln and Grant, and they doubted not their own power to absolutely control the victorious opposition. They would in time turn

out their enemies in Washington, and themselves resume the power which they had so unwisely thrown away in 1860, when they divided the Democratic party at the Charleston convention. Once bent upon this policy, they never deflected from it by the breadth of a hair. They had nothing to fear but the extension of suffrage to the black race in whole or in part. This they would oppose by every means at their command, including whatever amount of force and violence might be necessary to utterly stamp it out. This resolve they pursued as relentlessly as they had any of their severest war measures. They never professed any regard for the blacks except as slaves, and were utterly incapable of deeming them fit to exercise political rights. As for their civil rights, — that is, the ordinary rights of living, moving, and having their being, — these were to be measured out to the negroes by their enemies alone.

The Civil Rights Bill was an attempt to enforce the Thirteenth Amendment to the Constitution. It was opposed as violently in the South as was the Fifteenth afterwards to give the ballot to the emancipated slaves. The Fourteenth Amendment to the Constitution, then pending for the action of the States respectively, was hateful to them because it proposed to remove all doubts as to the constitutionality of the Civil Rights Bill, and to take all citizens in all the States under the protecting care of the federal government, to the extent of insuring the equality of all men before the law.

This seems to be a fair statement of the attitude of the ex-Confederates of the South in July, 1866.

CHAPTER CII

The Congressional Campaign of 1866. — "Swinging around the Circle." — The President's Disorderly and Inflammatory Speeches from the Stump. — Increased Radical Majorities elected to Congress. — Tennessee restored to Representation upon ratifying the Fourteenth Amendment.

WHILE the things were happening which are narrated in the two preceding chapters, the President was arranging for a journey to Chicago, ostensibly to attend the dedication of a monument to Stephen A. Douglas, but really to make a stumping tour, which was referred to ever afterwards as his "swinging around the circle." The following note was addressed to Secretary Stanton by Mr. Seward on August 8: —

In conversing this morning with the President about the Chicago excursion, I learn that he desires that you accompany him, and that General Grant should be invited with his family and staff, as he pleases. The President proposes also to have Admiral Farragut invited. Will you have the goodness to make the President's wishes known to General Grant?

It is also expected that you will invite Dr. Barnes.

It is understood that the ladies of our families and guests go with us.

Mr. Stanton did not go. The presence of General Grant and Admiral Farragut, who did go, was desired by the President that these illustrious personages and popular idols might thereby seem to countenance the

things he intended to say. During this journey the most extraordinary exhibitions of bad temper and worse taste were made by the President. He denounced Congress, and charged it with trying to break up the government. He charged that the New Orleans massacre had its origin in the "radical Congress." Expressions like these were common: —

I have been called Judas Iscariot and all that. . . . There was a Judas Iscariot, and he was one of the twelve Apostles. Oh, yes; the twelve Apostles had a Christ. The twelve Apostles had a Christ, and he never could have had a Judas unless he had had twelve Apostles. If I have played the Judas, who has been my Christ that I have played the Judas with? Was it Thad Stevens? Was it Wendell Phillips? Was it Charles Sumner? These are the men that stop and compare themselves with the Saviour; and everybody that differs with them in opinion, and to try to stay and arrest their diabolical and nefarious policy, is to be denounced as a Judas.

Well, let me say to you, if you will stand by me in this action, if you will stand by me in trying to give the people a fair chance — soldiers and citizens — to participate in these offices, God being willing, I will kick them out. I will kick them out just as fast as I can.

Let me say to you, in concluding, that what I have said I intended to say. I was provoked into this, and I care not for their menaces, taunts, and the jeers. I care not for threats. I do not intend to be bullied by my enemies nor overawed by my friends. But, God willing, with your help, I will veto their measures when any of them come to me.

In a speech made by him in the White House to a committee of citizens on the 18th of August, he used the following language: —

We have witnessed in one department of the government every endeavor to prevent the restoration of peace, harmony, and union. We have seen hanging upon the verge of the government, as it were, a body called, or which assumes to be, the Congress of the United States, when in fact it is a Congress of only a part of the United States.

In his speeches throughout the country the President indulged in the most unseemly altercations with citizens in the audiences whose anger he had aroused, and together they created much disorder. The result was an entire abandonment of the dignity befitting his station. His tour was an appeal from Congress to the people. He excused all that was being done in the South by those who had seized the control of the temporary state governments, and he thought to array the people against Congress for having placed impediments in his way. Never did any man so entirely misjudge the temper of the people whom he addressed. He gained no new support, but, on the contrary, greatly weakened his cause by the violence of his language and manner.

It was clear to the dullest comprehension that a President who publicly denied the existence of a lawful Congress could not feel himself bound by the laws enacted by what he termed a body "hanging upon the verge of the government," and falsely assuming to be the Congress of the United States. If there was no Congress, all the enactments of the body calling itself a Congress were invalid, and binding upon none. Appropriation bills passed by it conferred no authority upon the Treasury Department to pay out money for any

purpose whatever. With the people of eleven States, habituated by four years of rebellion to disregard the authority of the federal government, and with a large element in the North habituated to regard all legislation by a republican Congress as of doubtful constitutionality when conflicting with their own wishes, some idea can be formed of the danger to the public peace involved by the announcement by the President from the stump that the legislative department of the government was a revolutionary and tyrannical body, which, therefore, no citizen was bound to respect. His utterances in this direction were subsequently made the subject of one of the articles of his impeachment by the House of Representatives.

Never in any period of the country's political history — not even during the rebellion — did excitement run higher than during the campaign for the election of members of Congress in 1866. Into that campaign the President precipitated himself in the manner above described.

The opposing plans of reconstruction were debated on every stump and in every newspaper. The people listened and read, and, at the election, gave their decision upon the presidential appeal from the "radical Congress," as he termed it, in the form of increased majorities in both Houses.

This result was a new commission to Congress from the people in the organized States to adhere to the policy of excluding unorganized States from representation until they presented themselves for admission under governments republican in form and approved by

Congress, and until the proposed Fourteenth Amendment should be ratified by three fourths of the States. This would require the assent of some of the ex-rebel States to make up the necessary three fourths.

These overwhelming majorities destroyed the hope, if any such had been entertained, that the President would attempt, in the following March, the organization of a Congress which should embrace the senators and representatives from his provisional governments in the Southern States, and those from the remainder of the States who favored the President's policy. Such a combination would not have made a constitutional majority in either House.

The result did not, however, suffice to convince the Southern leaders of the utter hopelessness of his efforts to reinstate them in possession of the government without conditions. They seemed to still have faith in his ultimate power to give them a victory, and therefore made no change in their policy. As the best evidence that they did not desire the restoration of their States to practical relations to the Union upon the basis of the Fourteenth Amendment, it is only necessary to state that they had before them the example of Tennessee with its attendant result. That State had adopted and ratified a constitution on the 22d of February, 1865, had organized a state government under that constitution, and had ratified both the Thirteenth and Fourteenth amendments to the federal Constitution; whereupon, on the 23d of July, 1866, by a vote of 28 to 4 in the Senate, and 93 to 26 in the House of Representatives, it was resolved by Congress, that —

The State of Tennessee is hereby restored to her former practical relations to the Union, and is again entitled to be represented by senators and representatives in Congress.

Her senators and five of her representatives were admitted to Congress within the next three days, and her three remaining representatives were admitted at the opening of Congress in the following December.

It is worthy of note that the ratification of the Fourteenth Amendment by his own State was very displeasing to the President. Indeed, in his special message which accompanied the approval of the joint resolution for her restoration, he denied the right of Congress to pass it, and reiterated his declaration that all the States were already entitled to representation without congressional action. He controverted some of the statements contained in the preamble of the joint resolution, on the ground that they were "without foundation in fact, especially the assertion that the State of Tennessee has ratified the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress." "No official notice of such ratification," he added, "has been received by the Executive or filed in the Department of State. On the contrary, unofficial information from the most reliable sources induces the belief that the amendment has not yet been sanctioned by the legislature of Tennessee." But the legislature of Tennessee had, on the 19th of July, ratified the Fourteenth Amendment, despite the known hostility of the President to such action.

In his message he took the ground that if Tennessee had not been entitled to representation in Congress, she

had not been in a condition to ratify a constitutional amendment. In other words, that a State not entitled to representation could not lawfully ratify a constitutional amendment as a condition precedent to restoration. This was a characteristic stultification of the position he had himself taken with reference to the ratification of the Thirteenth Amendment. He had demanded and secured the ratification of that amendment by all but one of the provisional governments of the South created under his proclamations, as a condition precedent to their restoration to their true legal relations to the Union. On the 1st of November, 1865, Mr. Seward had telegraphed to Provisional Governor Marvin, of Florida, as follows: —

> Your letter of October 7 was received and submitted to the President. He is gratified with the favorable progress towards reorganization in Florida, and directs me to say that he regards the ratification by the legislature of the congressional amendment of the Constitution of the United States as indispensable to a successful restoration of the true legal relations between Florida and the other States, and equally indispensable to the return of peace and harmony throughout the republic.

In his annual message of 1865 the President had referred to his invitation to the Southern States "to participate in the high office of amending the Constitution" as one of the steps taken by him "to restore the constitutional relations of the States." It is clear from these expressions of his that at that time he had no doubt that a State not yet restored to its relations with the Union could nevertheless, and indeed as a condition to

such restoration, vote upon the ratification of a constitutional amendment. The act would be validated by the admission of the State.

The restoration of Tennessee by the joint resolution of Congress in July, 1866, was an assurance to the ten remaining States which had been in rebellion that the ratification by them of the Fourteenth Amendment, and the repeal of all their enactments in conflict therewith, would remove all barriers to the recognition of their new state governments by Congress, and to the admission from them of senators and representatives. Up to that time the white people of the South had not been called upon by Congress to share political power with the emancipated blacks or any portion of them. This is an important and vital fact, which must be considered in any attempt to make a just estimate of the terms finally imposed by the victors in the great civil war. The terms just stated were rejected.[1]

The radical terms which followed this decision by the South must be regarded as of the South's own making. The immense responsibility for the results of emancipation rested upon the emancipators, who, as heretofore shown, had found the late masters unwilling to protect the freedmen in the most common personal rights by local legislation, while they firmly denied the constitutional right of Congress to afford such protection under the Constitution as it was.

[1] They were rejected because President Johnson publicly urged their rejection, and because he lured the Southern people into a hopeless struggle by inflammatory assurances that the Northern people would sustain them in their opposition to the ratification of the Fourteenth Amendment.

CHAPTER CIII

Importance of the War Department in the Great Struggle. — Stanton's Attitude as an Obstacle to the Reactionists. — They loudly demand his Resignation. — His Reasons for remaining in the War Office.

In the political storm which raged in 1866, the party of reaction had thrust upon it by circumstances the leadership of the man who, two years before, had been chosen Vice-President by the Union party, and afterwards made President by the act of an assassin. An apostate from his party, he had all the zeal of a new convert in the service of its enemies. On the side of Congress there were many leaders. Among them all, the name of Edwin M. Stanton was probably as potential as that of any one in the land, as the representative of patriotism, of high courage, and of indomitable will. He was heard, however, only in the performance of his official duties.

If one might judge by the hostility he excited among his opponents, and by the volume of obloquy which was poured out upon him, certainly the President and his party must have regarded Mr. Stanton as an obstacle for the removal of which all their powers were to be concentrated. The differences between himself and the President, which he had stated so mildly and yet so clearly in the serenade speech of May 23, were claimed

to be differences which made it impossible for him to remain in the Cabinet with propriety. His resignation was loudly demanded by the administration organs, and as loudly predicted by them. He was represented by their correspondents as meanly debating what foreign office he would accept in exchange for the office he held. The lowest motives were ascribed to him because he did not vacate his place, and allow the President to fill it with some willing instrument who would aid him in resistance to the policy of Congress. He was sustained throughout this ordeal by hundreds of letters from friends, expressing their appreciation of the great public service he was rendering by refusing to be moved from his duty by the outcry around him. Extracts from a few are given.

The Hon. William P. Fessenden, senator from the State of Maine, wrote him from Portland in that State on the 20th of October, 1866, as follows: —

> Rumor has it that you are going out of office and out of the country. So far as I am concerned, and still more for the country's good, I hope it is not so.

Governor Morton, of Indiana, wrote him November 19: —

> It is a matter of gratification to your loyal friends that you have remained in the Cabinet, and I can assure you that you have not suffered the least prejudice by it. It has given confidence to the people of the North, and is justly regarded as another evidence of your courage and devotion to the country.

United States District Judge Bond, of Maryland, wrote him on the 18th of October, as follows: —

I hope and trust, for the sake of humanity and the country at large, there is not a word of truth in the rumor of to-day that you are to leave the War Department. . . .

I hope, having with indomitable energy and great fortitude stood at the helm so long, and amid such a terrible storm, you will not voluntarily relinquish it until we are safe in harbor.

Mr. Stanton's treatment of these rumors as to his proposed resignation and acceptance of a foreign appointment may be seen by the following extract from a letter written by him to his old-time friend, General Sickles: —

Your note has been received. It is not my design or desire to go to Spain, Paris, or any foreign country, and nothing could induce me to accept any foreign mission. When I leave the department, the remainder of my life will be devoted to the education of my children and the pursuits of private life. Neither the Senate[1] nor any other public employment has any attraction for me when my duties here are ended, and I shall forever renounce and abjure all official station. I am thankful to you for your kind and good wishes, and cordially reciprocate them.

The following is a letter he addressed to Governor Morehead, of Pennsylvania, September 21: —

I have heard it intimated that some of the delegates to the Pittsburg convention contemplated offering a complimentary resolution in favor of myself, and asking me to retain my position in the War Department. General Owen, of Philadelphia, and General Brisbin, of Ohio, have been mentioned as having the disposition. It must be obvious to you, as it is to me, that any personal allusion favorable to me would be prejudicial to any good influence I may be able to exert. I desire no indorsement — and personal compliments are mat-

[1] The general had suggested to him a seat in the Senate from Pennsylvania.

ters for which I have no taste. I wish you would therefore see that nothing of that kind is done in respect to me.

On the 17th of September Senator Wilson, of Massachusetts, wrote from his home, inclosing a letter from Ticknor & Fields, offering to publish in the "Atlantic Monthly" any statement Mr. Stanton might choose to make of his views of public matters. They assumed that he would soon leave the Cabinet, and it might be agreeable to him to make some public statement. To this Mr. Stanton replied as follows, under date of September 20: —

I return herewith the letter of Messrs. Ticknor & Fields, and beg you to give them my sincere thanks for their kindness. In the grave and solemn condition of public affairs now existing, it is not likely that I shall seek to withdraw the attention of the people from what so deeply concerns themselves to any personal considerations or explanations. While esteeming the good opinion of my fellow men, I count everything relating to myself of little moment compared with the great issues now pending in public judgment.

CHAPTER CIV

A Review of the Work of Congress. — The Fourteenth Amendment submitted to the States. — Its Terms. — Its Adoption would have ended the Long Controversy. — Moderation of the Majority in Congress up to the Time of Rejection. — The Military Reconstruction Act passed over the Veto. — Precautionary Measures by Congress.

The session commencing the first Monday in December, 1866, was the second and last session of the Congress elected in 1864 simultaneously with the reëlection of Mr. Lincoln. Up to this time that body had pursued a waiting policy, leaving the States lately in rebellion free to work out their own restoration to the Union, through acquiescence in the laws of the land, and through such legislation by their own provisional legislatures as would create a sense of security throughout the North that they were willing to submit in good faith to the necessary consequences of their defeat.

The action of Congress up to this time can be briefly summarized. It had passed the Civil Rights Bill over the veto of the President. It had voted that no senator or representative should be admitted from either of the eleven States which had been in insurrection until the right of such State to representation had been agreed to by both Houses of Congress. And, finally, on the 13th of June, 1866, it had submitted to the States

a proposed Fourteenth Amendment to the Constitution of the United States.

This amendment defined national citizenship, and made the rights of all citizens equal before the law. It conferred no political privileges. It was based upon the report of the joint committee on reconstruction which had been appointed the preceding December. The necessity for it had been emphasized by the denial by the President and his supporters of the power of Congress to protect the freedmen in their civil rights. The power of the federal government to enforce the freedom of slaves was conferred by the Thirteenth Amendment. Attempts had been made by the provisional governments in the South to impose upon the freedmen many of the disabilities under which they had suffered as slaves. To affirm the citizenship of the freedmen, and to secure them in the enjoyment of the usual privileges and immunities of citizens, not including the right to vote, was deemed by Congress an imperative obligation. The Civil Rights Act covered these objects, and seemed a rational and proper exercise of the power to enforce the amendment abolishing slavery. If the insurrectionary States had acquiesced in that act, and made it the standard of their own legislation, the Union would have been practically restored during the summer of 1866, without any condition as to the right of suffrage. It was to remove all doubts as to the constitutionality of the Civil Rights Act for the enforcement of the Thirteenth Amendment that the ratification of the Fourteenth Amendment was insisted upon.

It is true that other questions were covered by this amendment. It provided for the reduction of representation in Congress in proportion to the denial to male citizens of the right to vote, except for participation in the rebellion. It excluded from office a certain limited class of ex-rebels until their disabilities were removed by a two thirds vote of Congress. It prohibited the calling in question of the national war debt, and prohibited the payment by the United States or any State of any portion of the Confederate debt. But it seems improbable that these provisions would have been made conditions to restoration, if the major proposition of recognizing the federal power under the Thirteenth Amendment to guarantee equality of non-political civil rights to the blacks had been conceded in the beginning. It was obviously the intention, however, of the ruling class in the Southern States to contest this power with the federal government to the extent of all their resources. This was made evident by the objections in some of the States to the second clause of the Thirteenth Amendment, giving Congress the power to enforce the same by appropriate legislation.

When it is considered that there was a powerful current of public opinion in favor of the extension of the right of suffrage to the blacks, or at least to a portion of them, and that many of its advocates were among the ablest and most influential leaders of the Union party, of both Republican and Democratic antecedents, it must be admitted that the majority in Congress had maintained an even and moderate temper on the questions of the day.

On the other hand, no one is able to say what the Southern people would have done if President Johnson had not dazzled them with the opportunity which his desertion from his party seemed to open to them. The death of Mr. Lincoln was surely the greatest calamity that ever befell them, except the firing of the first gun of the rebellion. They had been led to believe during the war that submission to the federal government meant to them the utter loss of political freedom, the destruction of the rights of the States, and the flight or execution of their favorite leaders. Instead of all this they were simply called upon to acquiesce in the abolition of slavery, which they admitted had already been accomplished by the war, and to allow the freedmen the right, equally with the white men, to earn their living in peace, to have the right to make and enforce contracts, and, without the right to vote, to be subject only to such laws as the white people passed for themselves.

It is hardly possible to imagine that this mild offer of peace and restoration would have been rejected, or even criticised, by those who were then able to lead public opinion in the South, if Andrew Johnson had not appeared, as the marplot of all the centuries, to sow dissension and ill will. As he had in February vetoed the Civil Rights Bill, so in June he threw the weight of his influence against the ratification by the Southern States of the Fourteenth Amendment. On the 22d of that month he sent in a message to Congress, transmitting a report of the Secretary of State informing the President that, in accordance with the request of that body, he had transmitted copies of the proposed amend-

ment to the governors of the several States for submission to their legislatures. It was in this message that he took occasion to call in question the validity of the proceedings of Congress on the subject, and to make plain his hostility to the amendment. He complained that the joint resolution had not been submitted for his approval. Congress did not deem such approval necessary. As required by the Constitution, the resolution had already received the two thirds vote in each House, which, if it had been a resolution requiring the President's approval, would have been sufficient to give it force notwithstanding his objections.

He called in question anew the legitimacy of Congress, because States lately in rebellion were not therein represented. He doubted whether the amendment was in harmony with the sentiments of the people, and declared that the transmission of the amendment to the governors of the States by the Secretary of State was "purely ministerial, and in no sense whatever committing the Executive to an approval or a recommendation of the amendment to the state legislatures or to the people." The amendment was rejected by ten of the eleven insurrectionary States, — the President's own State of Tennessee being the only one in favor of it.

On the 17th of January, 1867, Governor Parsons, who had been the provisional governor of Alabama, telegraphed from the capital of that State to the President as follows: —

Legislature in session. Efforts making to reconsider vote on constitutional amendment. Report from Washington says it is probable an enabling act will pass. We do not know what to believe. I find nothing here.

The provisional legislature had, in conformity with the Johnson policy, rejected the Fourteenth Amendment on the 7th of the previous month, by a vote of 27 to 2 in the Senate and 69 to 8 in the House. It was a proposed reconsideration of this vote of rejection concerning which Governor Parsons sought the President's advice. The "enabling act" to which he referred was a reconstruction measure like that which was finally enacted less than three months later. Governor Parsons was anxious to know whether the reconsideration of the vote of rejection would have a tendency to save the State from such a measure. President Johnson's reply was as follows: —

> What possible good can be obtained by reconsidering the constitutional amendment? I know of none in the present posture of affairs; and I do not believe the people of the whole country will sustain any set of individuals in attempts to change the whole character of our government by enabling acts or otherwise. I believe, on the contrary, that they will eventually uphold all who have the patriotism and courage to stand by the Constitution, and who place their confidence in the people. There should be no faltering on the part of those who are honest in their determination to sustain the several coördinate departments of the government, in accordance with its original design.

The legislature, following this emphatic declaration by the President, continued its opposition to the ratification of the Fourteenth Amendment to the end. Not until the provisional government had disappeared and a new state government had taken its place did Alabama give her consent to that amendment.[1]

[1] January 13, 1868.

Three fourths of the States being necessary to the ratification of the amendment, the requisite number could not be had if the ten insurrectionary States continued in opposition. Besides, Kentucky had rejected it, and Delaware and Maryland could be depended upon for similar action, which they subsequently took. With the Southern States in the hands of the late rebel leaders, upheld by President Johnson, its adoption was impossible. This made inevitable the inauguration of a "reconstruction policy" by Congress.

The experiment had already been made, under "the President's plan," of allowing the lately rebellious States to be their own security, and had failed. It remained for Congress to exercise its power, until then withheld, not only to enact that the existing provisional governments were not valid state governments and could not be approved by Congress, but to place them in subordination to the military power, and at the same time to enact a law providing the conditions under which elections might be held for members of conventions to organize state governments republican in form, and to submit their work to the sovereign power of the government, by which alone such political questions can be settled.

Such legislation would be the plain dictate of common sense, and of public necessity. The Johnson governments, so called, were obstructions to the restoration of the Southern States to practical relations with the Union. Four years of war had been followed by two years of disregard of the clearest rights of the government by the controlling portion of those lately in rebel-

lion, and the interest of both sections required a termination of existing conditions. If Congress had up to that time been slow to act, and had made no demand on the vanquished foe for "indemnity for the past," it had not at any time waived the government's indisputable right to "security for the future." The people at the fall elections had spoken in unmistakable terms in favor of the strongest measures necessary for the accomplishment of the desired end. Accordingly, after due deliberation and long debate, the Military Reconstruction Act was finally passed over the veto of the President on the 2d of March, 1867.

This act declared that no legal state governments existed "in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Florida, Texas, and Arkansas," and provided for the enforcement of "peace and good order in these States until loyal and republican state governments could be legally established." It divided them into five military districts, and made them subject "to the military authority of the United States." It required the President to assign a general to the command of each district, and made it the duty of such commanders "to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace, and criminals." They were authorized to either allow the local civil tribunals then in existence to try offenders, or to organize military commissions for that purpose when they deemed it necessary.

The bill created a purely military government for the

South, to supersede the Johnson provisional governments which had also been the offspring of military authority. This was simply the exercise of the power which the President himself, through his Secretary of State, had informed the governors of Florida and Mississippi was vested alone in Congress. There was no disagreement between the President and Congress at the time the provisional governments were erected as to the legal proposition that they would not be valid unless approved by Congress.

The vehemence with which President Johnson had subsequently stultified himself and denied the power of Congress to call in question these provisional governments, taken together with his loud and angry challenges of the legality of Congress itself, rendered it probable that he would not administer the law in accordance with its intent. As a measure of protection, therefore, a law was passed changing the time for the assembling of Congress from the first Monday in December to the 4th of March. Instead of a recess of nine months' duration, during which time the President would be free from such constitutional control as Congress has while in session, that body would reassemble immediately upon the adjournment of the existing Congress on the 4th of March.

As further measures of protection which seemed to Congress to be demanded by the situation, the Tenure of Office Act was passed, mainly to prevent a change in the head of the War Department; and a clause was inserted in the Army Appropriation Bill by which all military orders of the President or Secretary of War

were to be issued through the general of the army, and which provided that the general of the army should not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at headquarters, except at his own request, without the previous approval of the Senate. The clause made it a misdemeanor for any officer to issue orders or instructions contrary to its provisions, or for any army officer to transmit or obey any orders or instructions contrary to such provisions. Another section of the same act required the disbandment of the local military forces in Virginia, North Carolina, South Carolina, Georgia, Alabama, Louisiana, Mississippi, and Texas, and prohibited the calling of any such militia into service under any circumstances unless authorized by Congress.

These acts had an important bearing on the conduct of affairs during the ensuing year. They are only referred to here in their chronological order to exhibit the record of the Thirty-ninth Congress.

The measures referred to in this chapter were all passed over the veto of the President, the Republicans in the two Houses voting for them with substantial unanimity. On the passage of the reconstruction bill of March 2, in the House it received 138 Republican votes, while only 7 Republicans voted against it. In the Senate it received 37 Republican votes besides the vote of Reverdy Johnson, of Maryland, only three Republicans voting against it. On the passage of the Civil Tenure Bill over the veto of the President in the House, it received the votes of 112 Republicans, while only 4 Republicans voted against it. In the Senate it

received the votes of 35 Republican senators, while only 3 Republicans voted against it. The three Republican senators who voted in the negative in each case were Cowan (Pennsylvania), Dixon (Connecticut), and Doolittle (Wisconsin), all of whom ceased thenceforward to act with the Republican party.

CHAPTER CV

The New Congress. — Supplementary Reconstruction Act. — Conflicting Constructions of the Law. — The President and his Attorney-General antagonized by Secretary Stanton and the Military Commanders.

THE wisdom of the act convening Congress in regular session on the 4th of March instead of in the following December was made manifest upon the very eve of the adjournment of the Thirty-ninth Congress. The language and spirit of the President's message of March 2, vetoing the reconstruction act, gave strong indications of an intention to thwart the will of Congress by failing to execute the law. He declared the measure to be "without precedent and without authority, — in palpable conflict with the plainest provisions of the Constitution." The bill which he vetoed contained a section prescribing in general the method and conditions under which the people of the ex-rebel States, or any of them, might form constitutions to be submitted to Congress for its approval, and for the restoration of such States to their relations with the Union, upon the ratification of the Fourteenth Amendment, and its final incorporation in the Constitution. But it contained no provision fixing a time for the election of delegates to frame constitutions, and made no provisions for the registration of voters. The veto

message of the President determined Congress to supply these omissions by passing a supplementary reconstruction act, at the first session of the Fortieth Congress, which assembled March 4. In this bill a time was fixed for the registration of voters, to be had under the direction of the commanding general in each district, and their qualifications were prescribed. It also provided for the holding of elections for delegates to constitutional conventions in the several States, at such times and places as the commanding general should appoint and direct. At the election for delegates the people were also to vote for or against the holding of a convention. If a majority voted for a convention, then the delegates elected should assemble in convention, provided, however, that such convention should not be held unless a majority of all the registered voters in the State had voted on the question of holding the same. The constitution framed by the convention was to be submitted to the registered voters of the State for their approval or rejection.

Congress, having thus provided how the military authority of the United States should be exercised until valid state governments could be formed in the South, and having opened the way to the people of these States for the formation of state constitutions and the erection of state governments, adjourned on the 30th of March until the 3d of July.

The power of the President to prevent the execution of the reconstruction laws was now narrowed down to evasion, through strained construction of its provisions, or to open disregard of them. He selected the former course.

Pursuant to the reconstruction act of March 2 the President assigned commanders to each of the five districts of the South created by the act, as follows: —

First District, State of Virginia, General John M. Schofield.

Second District, States of North Carolina and South Carolina, General Sickles.

Third District, Georgia, Florida, and Alabama, General Thomas.[1]

Fourth District, Mississippi and Arkansas, General Ord.

Fifth District, Louisiana and Texas, General Sheridan.

In his veto message the President had construed the reconstruction act as giving to the commanding officer over all of the people of each district the power of an "absolute monarch." His will was to take the place, he declared, of all law. He said: "It is plain that the authority here given to the military officer amounts to absolute despotism." "No master," said he, "ever had a control so absolute over his slaves as this bill gives to the military officers over both white and colored persons." He declared that the measure wiped away every vestige of republican government, and placed "the life, property, liberty, and honor of all the people and each of them under the domination of a single person clothed with unlimited power." All this and much more to the same effect was the construction placed upon this great measure by President Johnson. It

[1] At the request of General Thomas his assignment was revoked, and General Pope was assigned in his place.

seemed to leave no room for any indirection on his part. There stood the law upon the statute-book, the language of which he had himself construed in his veto message. If that message was an honest expression of his opinion, he seemed to have only the alternative of executing it faithfully, or refusing to do so.

In this dilemma he resorted to the expedient of calling upon the Attorney-General for an opinion by which it might be made to appear that the act had not the directness with which he had credited it. Questions had arisen upon inquiries from the military commanders as to their duties under it. These related principally to the power of removal, by military commanders, of officers under the provisional governments, and to the qualifications of voters. These inquiries were referred to the Attorney-General, Mr. Henry Stanbery, of Ohio, for his opinion.

The power of the military commanders to remove officers under the provisional governments became a very important question.

On the 27th of March, 1867, eight days after assuming command of the Fifth District, — Louisiana and Texas, — General Sheridan issued an order removing A. S. Herron, attorney-general of the State of Louisiana, J. S. Monroe, mayor of the city of New Orleans, and Edwin Abell, judge of the first district court of the city of New Orleans. On the 19th of April he wrote to General Grant that these removals were made under powers granted by the reconstruction act of March 2. He said he had not deemed it necessary to give any reasons for these removals in view of the investigation

of the massacre of July 30, 1866, and the military and civil reports thereon. But as some inquiry had been made as to the cause of removal, he submitted the following statement to the general: —

The court over which Judge Abell presided is the only criminal court in the city of New Orleans, and for a period of at least nine months previous to the riot of July 30, he had been educating a large portion of the community to the perpetration of the outrage, by almost promising no prosecution in his court against the offenders, in case such an event occurred. The records of his court will show that he fulfilled his promise, as not one of the guilty has been prosecuted.

In reference to Andrew S. Herron, attorney-general of the State of Louisiana, I considered it his duty to indict these men before his criminal court. This he failed to do, but went so far as to attempt to impose on the good sense of the whole nation by indicting the victims of the riot instead of the rioters; in other words, making the guilty innocent and the innocent guilty. He was, therefore, in my belief, an able coadjutor with Judge Abell in bringing on the massacre of July 30.

Mayor Monroe controlled the element engaged in this riot, and when backed by an attorney-general who would not prosecute the guilty, and a judge who advised the Grand Jury to find the innocent guilty and let the murderers go free, felt secure in engaging his police force in the riot and massacre.

With these three men exercising a large influence over the worst elements of the population of this city, giving to those elements an immunity for riot and bloodshed, the general-in-chief will see how insecure I felt in letting them occupy their respective positions in the troubles which might occur in registration and voting in the reorganization of this State.

He also removed the Board of Levee Commissioners at New Orleans; and almost immediately afterwards removed Governor J. Madison Wells. In his dispatch to General Grant of June 4, 1867, informing him of this latter removal, he said: —

I found it necessary yesterday to remove Governor Wells. He has embarrassed me very much since I came in command by his subterfuge and political chicanery. This necessary act will be approved here by every class and shade of political opinion. He has not a friend who is an honest man.

I inclose by mail copy of order removing him.

On the 6th he telegraphed that he had appointed B. F. Flanders in Wells's place.

On the 22d of May General Pope removed the mayor of Mobile, Alabama. The following communication from Secretary Stanton to the President was a practical application of his view of the power of removal vested by law in the district commanders: —

Sir, — I have the honor to acknowledge the reference by you for my comment of the reports of Major-General Pope, General Swayne, and Colonel Shepherd relating to the recent occurrences at the city of Mobile. In regard to the criminal conduct on that occasion by some persons whereby some lives were lost and many endangered, there can be no difference of opinion. The action of Major-General Pope in removing the mayor and chief of police and appointing others in their place would seem to be the only points presented by the reports for comment.

The act "To provide for a more efficient government of the rebel States" enacts among other things, in its third section, "that it shall be the duty of each officer assigned as aforesaid (viz.: the commanders of military districts estab-

lished by Congress) to protect all persons in their rights of person and property, to suppress insurrection, disorder, and violence, and to punish or cause to be punished all disturbers of the public peace and criminals," etc.

In my opinion the power is by this section vested in the commanders of military districts to suspend or remove from office any municipal or police officer and appoint others in their place, if such action in the exercise of a reasonable discretion be necessary "to protect persons or property, or to suppress insurrection, disorder, or violence." A rash or wanton exercise of the authority would be an abuse of the power not justified by the act.

From a consideration of the reports I am unable to discover any evidence of rash or wanton exercise of authority by General Pope, but only a desire to do what, with all the lights before him, he deemed to be the most certain and peaceable means of protecting persons and property and suppressing disorder and violence. He gives as the reason for removing Mayor Withers, his lack of diligence and care to prevent disorder and violence, as manifested by his absence from a meeting where he "apprehended disturbance," instead of being present with the necessary police force and arrangements to keep the peace, and leaving the peace of the city in the hands of a chief of police who either sympathized with the rioters, or was wholly inefficient. This want of proper force and arrangements to keep the peace at a public meeting where disturbance was apprehended, General Pope regards in his report as criminal misconduct on the part of the mayor and chief of police, and he states that there is not likely to be "confidence of any security whatever hereafter whilst they retain their office."

In the absence of any conflicting proof in the department, the official report of a military commander is presumed to be true, and, if true, there seems to be no good ground for overruling the action of General Pope.

General Swayne in his report says: "I do not find that any graver charge than timidity or inefficiency can be sustained against the police authorities of the city of Mobile." But it is hard to conceive what more grave charge, short of actual participation in crime, could be made against officers charged with the preservation of the public peace than timidity and inefficiency in the suppression of disorder and violence; and General Swayne asserts that "freedom of speech and public order have been greatly outraged by an element which is active in the spirit of the rebellion, and presumes upon the sympathy of the police in this regard, and that this view is supported by the antecedents of the police," etc.

Colonel Shepherd in his report, while speaking of the violent and disorderly spirit existing to some extent at Mobile, takes quite a different view of the conduct and character of Mayor Withers, speaks of the "repression exercised by his impartial justice," and believes him to be "the only man in the city of Mobile qualified by disposition to temper with proper discretion his official acts." Creditable as this testimonial may be to Mayor Withers, it indicates no gratifying condition of things, if there be in Mobile one man only "qualified by disposition" to temper official acts with discretion.

The reports of General Swayne and Colonel Shepherd were before the commanding general, whose duty it was to consider the case in all its bearings; and whether the removal of Mayor Withers was a measure that would contribute to the security of persons and property and suppress disorder and violence was in my opinion a question the general was authorized to determine in a reasonable and discreet manner, subject to the approval of the President, and the reports to my mind justify his action. I would therefore respectfully recommend that his action be allowed to stand.

CHAPTER CVI

Mr. Stanton and the Attorney-General. — Cabinet Proceedings.

On the 24th of May the Attorney-General, in response to the President's call, gave an opinion upon questions relating to the qualifications of voters, following it up on the 12th of June with one of much greater length, and at its close summarizing the first one.

His opinion was made the subject of Cabinet consideration, the proceedings commencing on the 18th of June and extending through three days. Mr. Stanton's memorandum of the first day's proceedings says: —

After the usual routine business of Cabinet had been finished, the President said he desired to bring two matters before the Cabinet. 1st. The instructions to be given to military commanders in the Southern States in respect to their powers under the opinion of the Attorney-General. 2d. The powers of the President over the military commanders and their action. He observed that it was very important to have unanimity of action by the Cabinet, but it was rumored that differences on these important subjects existed between members of the Cabinet, and the time had come when the matter should be finally settled, and for that purpose he proposed to take the sense of the Cabinet on the different points of the Attorney-General's opinion.

There were nineteen points. Twelve were approved unanimously, while seven received the votes of all except

Mr. Stanton. The points upon which he dissented from all the other members of the Cabinet were those which he thought broke down the barriers against the claim of disfranchised rebels to the right to be registered and to vote. The construction placed upon the reconstruction acts by the Attorney-General, with the approval of a majority of the Cabinet, plainly tended to defeat the objects of Congress.

Following are extracts from the proceedings of the second day, June 19, as recorded in the memorandum by Mr. Stanton: —

The Cabinet met at the Executive mansion at twelve o'clock, pursuant to adjournment.

Present: The President and all the heads of departments except the Secretary of the Interior.

After the transaction of some routine business, the President exhibited a list of interrogatories which he said he had prepared, and upon which he said he wanted the answers of the members of the Cabinet, remarking also, as on other occasions, the necessity for uniformity of opinion in the Cabinet.

The Secretary of War remarked that at the adjournment yesterday afternoon, the Attorney-General said he would prepare and bring to the Cabinet this morning drafts of the orders or instructions which he proposed to have given by the President to the district commanders, and they would be submitted to the consideration of the Cabinet; that if the Attorney-General had his orders or instructions ready, it would be easier and better to act upon them as practical measures than to give answers to abstract questions; he then asked the Attorney-General if he was ready to submit the orders or instructions which he intended to recommend to be issued to the military commanders. The Attorney-General replied that he had not had time to prepare them.

The President then handed the Attorney-General the list of interrogatories, and asked him to read them.

The Attorney-General having read them all over, the Secretary of War said this mode of proceeding rather surprised him. The opinion and conclusions of the Attorney-General had been read and discussed fully, and it was stated yesterday that special orders and instructions founded thereon would be submitted this morning, but instead thereof a string of general questions carefully and deliberately prepared were brought forward, and gentlemen required to make immediate answer. He (the Secretary of War) thought that each member of the Cabinet should be furnished with a copy of the questions, and afforded time to understand their import, and make deliberate and specific answer. The Attorney-General replied that the questions were very plain and such as he could answer at once, and he thought any one else could answer them. Mr. Seward said he, for his part, was ready to answer them. Mr. McCulloch said the same. The Secretary of War said that although the proceeding was very extraordinary and in his opinion the course of the Attorney-General exceptionable, yet he should ask for no delay, but would make immediate answer for himself, stating first his general views of the reconstruction acts, which were expressed in a few points which he had prepared last night. The Secretary of War then read the annexed paper containing his views of the reconstruction acts. In the course of the reading he was interrupted by the President and the Attorney-General's adverse comments, and the reading was followed by the dissenting criticism of all the other members of the Cabinet, of which the Secretary of War took no notice.

The Attorney-General then read the first interrogatory, which was answered as stated in the annexed minute marked B., made in Cabinet by the Secretary of War and compared with the record or minute which the Attorney-General assumed to keep of the proceedings.

The second interrogatory was then read and answered as appears in the minute.

The third interrogatory being read, it did not please Mr. Seward, who wished it changed. After discussion between him and the Attorney-General, in which the President and McCulloch, Welles, and Randall participated, the interrogatory presented was changed to the form expressed in the minute B., and so propounded and answered as set forth in said minute.

The fourth and fifth interrogatories as presented were also objected to by Mr. Seward, and discussed by him and the Attorney-General, and altered to the form in which they appear in minute B., and were so propounded and answered.

After these interrogatories had been answered as set forth in the minute, the Attorney-General said he could not go any further to-day. The Secretary of War urged that the matter should be closed to-day. It had been under discussion, he said, many weeks, and ought to be concluded. The Attorney-General said it was impossible to do anything more until he had prepared some other papers which he could not have ready until to-morrow. The Cabinet then adjourned. While in the cabinet room the Secretary of War asked the Attorney-General if he had not prepared the interrogatories produced by the President and changed in the Cabinet as above mentioned. The Attorney-General replied that he did prepare them and gave them to the President.

MINUTE B.

June 19, 1867.

In Cabinet.

The special interrogatories hereinafter mentioned being presented by the President to the Cabinet for their consideration, the Secretary of War read to the President and Cabinet the following statement of his views: —

In respect to the interpretation of what are called the reconstruction acts of Congress, I am of opinion:

1st. That by the act to provide for the more efficient government of the rebel States and its supplement Congress designed to establish, and did establish, a military government in the ten rebel States paramount to all other government whatsoever, and made those States "subject" to military authority.

2d. That to the commanding general assigned in each district is given command over all persons, private or official, in his respective district; that command to be sustained by military force adequate to enable the commander to perform his duties under the act.

3d. That the duties of the military commanders are: —

To protect all persons in their rights of person and property.

To suppress all insurrection, disorder, and violence.

To punish all disturbers of the public peace and criminals, and to this end (viz.: punishment) they may allow local tribunals to try offenders, or may organize military commissions.

It is also their duty under the supplemental act to cause a registration to be made and an election to be held as prescribed by the act of Congress and its supplement.

4th. That, as the power thus vested in the military commanders embraces the exercise of absolute military "command" in their respective districts, it therefore comprehends the removal from office of any person who may hinder, obstruct, or oppose the execution of the specified acts of Congress, or occasion disorder in the command, and also the appointment of any officer whose functions are necessary to afford protection to persons and property, or to suppress insurrection, disorder, and violence within the command. And hence the military commander may, by virtue of the acts of Congress, remove from office any provisional gov-

ernor, judge, or other public officer or agent, and substitute others, whenever in the exercise of reasonable discretion he deems such acts needful for carrying into effect the provisions of the act of Congress.

5th. That the powers before mentioned are vested by the acts of Congress immediately and directly in the commanding generals assigned in the several districts, and cannot be exercised by the President in person any more than he can take upon himself in his own person any other duty of military service vested in a specific officer by law; as for example the duties of the quartermaster-general, commissary-general, surgeon-general, chief of engineers, or chief of ordnance.

6th. As commander-in-chief, and under his authority to see the laws faithfully executed, the President may remove the commander of a district for any willful neglect or wanton abuse of his authority; but such removal should be for good cause.

7th. That the power of removal being vested in the general commanding the district, the President cannot order the reinstatement of any officer removed by the commanding general, unless it appear that such removal was a wanton abuse of authority by the commanding general.

The special interrogatories presented by the President were then read by the Attorney-General and answered as follows: —

1. Is the power vested in the President to see that the reconstruction acts are faithfully executed?

All except the Secretary of War answer in the affirmative. The Secretary of War answers as follows: —

1st. Under the limitations and qualifications expressed in my general view of the acts of Congress under consideration just read to the President and Cabinet, and which is made a part of my answer, I answer this interrogatory in the affirmative.

2. Has the President a supervision over the military com-

manders, and are they bound to perform their duties in conformity with his instructions?

All except the Secretary of War answer affirmatively, and that the President has the same supervision and right of instruction as he has to other acts of Congress.

The Secretary of War answers as follows: —

2d. The President has as commander-in-chief a supervision over the military commanders to see that there is no willful neglect or wanton abuse of authority by the generals commanding. But in my opinion the duties assigned to the military commanders in the act to provide for the more efficient government of the rebel States and its supplement are specifically intrusted to them, and they are not bound to perform these duties in conformity to his (the President's) instructions unless they are in accordance with the acts of Congress.

3. If any one of the military commanders assumes and exercises powers not conferred by these acts or any other acts of Congress, and the error is injurious to the execution of these laws or the public welfare, is it the duty of the President (if he deem it proper and expedient) to cause the error to be corrected?

All answer in the affirmative, except the Secretary of War, who answers as follows: —

3d. I answer this question that if the supposed wrongful act of the commanding general be a willful neglect of duty or a wanton abuse of authority that would obstruct or prevent the execution of the acts of Congress under consideration, it would in my opinion be the duty of the President to correct it.

4. Is an unlimited power conferred on the military commanders to abolish, modify, control, or supersede the laws of the State?

All answer in the negative that Congress has not conferred such unlimited power, except the Secretary of War, who answers as follows: —

4th. I answer that Congress in the preamble of the act to provide for the more efficient government of the rebel States has declared, among other things, that no legal state governments exist in said States, and has made them subject to military authority, and given command in each district to the military commander assigned by the President, and has also provided that any civil government which may exist therein shall be deemed provisional only; I am therefore of opinion that the military authority is paramount, and if the general commanding shall find any state law obstructing, impeding, or inconsistent with the due execution of the acts of Congress under consideration, he has unlimited power to abolish, modify, control, or supersede the state law.

5. Has a military commander the power to order the established courts of the State or of the United States exercising criminal jurisdiction, to sentence a criminal to a different mode or a degree of punishment than is provided by the law of the State or by the federal law?

All answer in the negative, except the Secretary of War, who answers as follows: —

5th. I answer this question that I have no knowledge of any interference or authority having been assumed by any district commander over the action of the federal courts; nor have I any knowledge of any such case in respect to a state court, as is assumed by the question. But inasmuch as the State is subject to military authority, I am of opinion that a district commander may prohibit the execution of corporal punishment by the sentence of a state court. I am not aware of any case in which he has authority to command a judge to impose any particular sentence, although he may remove the judge for good cause.

At the adjourned cabinet meeting of June 20, according to Mr. Stanton's notes of the same: —

After the transaction of the routine business the Attorney-General presented his minutes of the action of the Cabinet on the reconstruction acts, which were read over by him.

After the reading the President observed that it was now to be determined what form of order should be issued; and said that he thought it ought to be prefaced by a preamble, setting forth that the military commanders had applied for instructions; that the acts of Congress had been referred to the Attorney-General, and his opinion with the acts of Congress having been considered, the President and Cabinet had agreed upon the summary of points made out by the Attorney-General as the true interpretation of the law, — or that something of that sort should be stated by way of explanation.

The Secretary of War said he could not issue an order stating that the Cabinet had agreed upon the Attorney-General's summary, because the Cabinet as a whole had not agreed upon the summary, for he had dissented upon several of the points.

The President asked if the decision of a majority of the Cabinet was not the decision of the Cabinet? The Secretary of War answered that in legal effect the decision of a majority was the decision of the Cabinet, but that such a recital as was proposed was the statement of a fact which was not true in fact.

The Secretary of State said he thought there should nothing be said in regard to any agreement by the Cabinet, for, under our system, all executive orders were by the President. We had no Cabinet in the proper sense of that term. There were heads of departments with whom the President consulted, and through whom he acted, but their acts were the acts of the President, and that whatever order was issued should be issued as the order of the President.

In this view the Attorney-General concurred.

Mr. Seward then asked the Attorney-General to prepare

and submit such an order as he thought should be issued. The President said he would like to see what form the Secretary of War thought it should be issued in. The Secretary of War said, if the President desired, he would put in form what he understood to be the views of the President and a majority of the Cabinet. The President said he wished the Secretary of War would do so.

The Attorney-General and the Secretary of War then each prepared a form which was read to the President and the Cabinet.

At this point Mr. Welles said that he was rather of opinion it would be better to issue no instructions; Congress would probably soon be in session, and could pass an explanatory act; that he was inclined to agree with the Secretary of War that the reconstruction acts were military laws vesting the power in the military commanders, and if they wanted instruction, Congress should give it.

The President then addressed the Secretary of War, and asked what he thought on the question of giving any instructions?

The Secretary of War answered that he had already given the opinion that military authority was established over the rebel States, and the power vested in the commanding generals, who should interpret the law for themselves, and, therefore, that no instructions should be given them but to follow the acts of Congress.

The Secretary of State, Treasury, Postmaster-General, and Attorney-General said that as the generals had asked for instructions, it was the duty of the President to instruct them, and that in no other way could there be any uniformity of action.

The forms prepared by the Attorney-General and Secretary of War were then again read over, and compared. Some verbal changes in the form prepared by the Secretary of War were suggested by the President, Mr. Seward, Mr.

Welles, Mr. McCulloch, and Mr. Randall, which being made, the form prepared by the Secretary of War, so corrected, was agreed to by all, except Mr. Stanbery, and was adopted by the President, who directed that it be issued as early as possible, saying he would like to see it again before final issue.

The following is a copy of a draft, in Mr. Stanton's handwriting, of what he understood to be the views of the President: —

Whereas, several commanders of military departments, created by the acts of Congress known as the reconstruction acts, have expressed their doubts as to the proper construction thereof, and in respect to some of their powers and duties under said acts, and have applied to the Executive for information in relation thereto, and —

Whereas, the acts of Congress have been referred to the Attorney-General for his opinion thereon, and the said acts and the opinions of the Attorney-General have been carefully and fully considered by the President in conference with the heads of the respective departments, the President has concluded that the following is the correct and practical interpretation of the acts of Congress aforesaid on the points therein presented, and directs the same to be transmitted to the said commanders for their information, in order that there may be uniformity in the execution of the said acts.

Then followed the summary of Mr. Stanbery's opinion.

In the official letter as finally issued, no material alterations were made from Mr. Stanton's draft. Of course the views of the Attorney-General, and not the dissent therefrom by Mr. Stanton, were adhered to in the summary of points. The letter related solely to the qualifications of voters, and did not touch upon the

other matters which had been the subject of cabinet consultation, namely, the power of removal in the commanding generals, and the accountability of these generals to the President.[1]

[1] The fact that the cabinet proceedings contained in this and the preceding chapter were in part given out for publication at the time, by the administration, removes any objection there might otherwise be to the entire report of them. There is nothing in the manuscript to indicate that Mr. Stanton preserved them for publication.

CHAPTER CVII

Supplementary Reconstruction Act. — Original Draft made by Mr. Stanton. — It left no Room for Misconstruction. — Grant's Support of it.

In the conclusions arrived at by the Attorney-General concerning the qualifications of voters under the reconstruction acts, he had aimed with great precision at the vitals of the law. He denied the right of the boards of registration to adopt any measures for protecting the ballot against false oaths of applicants for registration. Under his instructions, none who had participated in the rebellion could be excluded from voting unless they had been first convicted by a court and sentenced for the crime. Those who held office under the Southern Confederacy during the rebellion were not disqualified unless their official duties were directly connected with the war. In short, under his instructions, the question of disqualification was to be left exclusively to the disqualified. No man was to be disqualified who was willing to swear that he was qualified. The lists of registered voters could not be purged of disqualified persons between the time of registration and election day, however overwhelming the testimony might be that great numbers of them were disqualified under the statute.

The circular based upon the Attorney-General's opin-

ion went out under date of the 20th day of June. Registration was then in progress in the South. Congress was to assemble, pursuant to adjournment, on the 3d of July. It would be for that body to determine whether its power over the subject of reconstruction should be nullified by construction, or made so clear by explanatory legislation that no room would be left to doubt its meaning or evade its commands. The latter course was adopted.

The firm stand taken by Mr. Stanton in the Cabinet in support of the laws, against the President's determination to obstruct them, had been published in part in the newspapers of the country, although not in such detail as has been given in these pages. That the majority of Congress availed itself of his counsel in this crisis is evidenced by a comparison of the supplementary reconstruction act, passed over the veto of the President on the 19th of July, with a draft of such a bill drawn by Mr. Stanton, and left among his papers. They are nearly identical.

This act not only obliterated the Attorney-General's construction of previous legislation, but it expressly exempted the military commanders from any obligation to accept the opinion of any civil officer of the United States as their rule of action. It made the military commanders the direct instruments of the law for its execution. In short, it asserted the powers of Congress to preserve order in the lately rebellious districts until civil governments were erected which it could approve. It brought the President face to face with a law the terms of which could not be misunderstood, and which he must either obey or defy.

On the day after the passage of this act General Grant addressed the following letter to Mr. Stanton: —

I leave this evening for Governor's Island, New York harbor. On Monday evening I will go to Long Branch, New Jersey, where any communication will reach me for the balance of the week. If it is desirable to send any dispatches in cipher, Major Leet can send them to General Porter, who will be with me.

As soon as I receive a copy of the bill which passed Congress yesterday over the President's veto, I will make such orders as seem to me necessary to carry out the provisions of the bill, and direct that they be shown to you before being issued.

The following letter written to Mr. Stanton four days after this by General Grant shows how cordial the relations were between them at that time: —

Every day that I am absent from Washington I see something in the papers, or hear something, that makes me feel that I should be there. At the same time I am very anxious to remain absent all that public duty will allow this summer, and write now to ask you if you will not inform me when you think it essential that I should go back, and allow me to remain absent until it is. Even with permission to be absent all the time, I will go back for a day or two at a time occasionally.

The few orders necessary to give under the recent supplementary reconstruction law I can write here and send to Washington to be issued by the adjutant-general. I cannot do this, however, until I receive an official copy of the law. I think it will be well, however, for the adjutant-general to notify all the district commanders except Ord, in my name, to continue the orders now in force until otherwise directed. General Ord should change his registration order at once, so as to authorize registrars to take testimony and reject all

persons not entitled to the register, even if they are willing to take the required oath.

If at any time you wish to leave Washington, I will go back with great pleasure, and will be glad to see you go on your account, because I feel that your health requires it. For myself, my health does not require rest, but I have got so tired of being tied down that I am nearly ready to desert. Things might so easily have been different now and given repose to the country and consequently rest to all interested in administering the laws.

CHAPTER CVIII

General Grant's Conviction led him to Unqualified Support of the Policy of Congress. — His Correspondence with District Commanders. — His Latest Utterances on the Subject.

It is both interesting and important to here record the concurrence of General Grant with the views of Mr. Stanton upon the subject of reconstruction, and upon the true intent and meaning of the acts of Congress in relation thereto.

As early as November, 1865, the general made a tour of inspection through some of the Southern States "to see what changes were necessary to be made in the disposition of the military force of the country," and "to learn as far as possible the feelings and intentions of the citizens of these States towards the general government." This tour was made with the approval of the President and the Secretary of War. On the 16th of December, the Senate having called upon the President for information on the subject, General Grant was requested by President Johnson to make a report, which the latter transmitted to the Senate on the 18th. The substance of this report is contained in the following extracts: —

I am satisfied that the masses of thinking men of the South accept the present situation of affairs in good faith.

Four years of war, during which law was executed only at

the point of the bayonet throughout the States in rebellion, have left the people possibly in a condition not to yield that ready obedience to civil authority the American people have generally been in the habit of yielding. This would render the presence of military garrisons throughout these States necessary until such time as labor returns to its proper channels and civil authority is fully established. I did not meet any one, either those holding places under the government or citizens of the Southern States, who think it practicable to withdraw the military from the South at present. The black and white mutually require the protection of the general government.

He thought the citizens of the Southern States were anxious to return to self-government within the Union as soon as possible, and that they "were in earnest in wishing to do what they thought was required by the government, not humiliating to them as citizens." He referred to the universal acquiescence in the authority of the general government throughout the parts of the country visited by him as "rendering the mere presence of military forces, without regard to number, sufficient to maintain order."

The temperate tone of this report was disappointing to a large class of people, who measured the firmness of opinions by the vehemence with which they were expressed. Like all that General Grant wrote, it was extremely good tempered, conciliatory, and calculated to aid in allaying the feeling which yet remained in the South, and which he alluded to as an indisposition to "yield ready obedience to civil authority."

His well-known reticence left everything to the imagination, in 1866, as to what he thought of the

President's course in breaking with the party which elected him. When he accepted the latter's invitation to accompany him on his Western journey in the summer of that year, many were apprehensive that it betokened political sympathy with him. Nothing could have been further from the truth. The President availed himself of the courtesy due from all officials, civil and military, to a presidential invitation, and General Grant was made a member of his party probably for the purpose of making as many people as possible believe that there was a political sympathy between them, when in truth, as the record shows, none existed.

General Grant was, from the time of the passage of the first reconstruction act, March 2, 1867, constant in his support of it. On the 7th of April of that year General Pope, commanding the third military district, — Alabama and Georgia, — wrote to him for his opinion as to whether officers of the rebel army paroled at the conclusion of the war would violate their parole if they attempted to obstruct the operation of the reconstruction acts of Congress. The questions as put were an expression by General Pope that such conduct would be a violation of the parole. On the 13th General Babcock, aide-de-camp to General Grant, wrote from Washington saying: "In reply to your communication of April 7 the general-in-chief desires me to say that your views upon the obligations of a parole are in strict accordance with his own." The parole required the officers to go to their homes and obey the laws. General Grant's reply to General Pope was a declaration that the reconstruction laws of Congress must be

obeyed by those claiming the privilege of the parole. This was the very issue between the President and Congress. The President was denouncing Congress as an illegitimate body, and its acts as not only unconstitutional in themselves, but void because of their source.

General Grant agreed with Mr. Stanton that the original reconstruction act conferred upon the district commanders the power to remove officers of the provisional governments. Provisional Governor Jenkins, of Georgia, had issued an address to the people, urging them not to vote for the restoration of the government of that State under the congressional plan. General Pope reported the matter to General Grant. Immediately after he had done so, he received and forwarded to General Grant an explanation from the governor and assurances for the future that were satisfactory, so that no further consideration of the order was necessary. General Grant forwarded both documents to the Secretary of War for his information, with this comment: —

The conduct of Governor Jenkins demonstrates, however, how possible it is for discontented civil officers of the reconstructed States to defeat the laws of Congress, if the power does not exist with the district commanders to suspend their functions for cause in some way. It seems clear to me that the power is given in the bill "for the more efficient government of the rebel States," to use or not, at the pleasure of district commanders, the provisional machinery set up without the authority of Congress in the States to which the reconstruction act applies. There being doubt, however, on

this point, I would respectfully ask an early opinion on this subject. If the power of removal does not exist with district commanders, then it will become necessary for them to take refuge under that section of the bill which authorizes military commissions.

General Grant also agreed with Mr. Stanton on the subject of registration. General Ord, in command of the fourth district, — Mississippi and Arkansas, — forwarded to General Grant his final order instructing boards of registration. To this the general replied on the 23d of June: —

Copy of your final instructions to boards of registration of June 10, 1867, is just received. I entirely dissent from the views contained in paragraph iv. Your view as to the duty of registrars to register every man who will take the required oath, though they may know the applicant perjures himself, is sustained by the views of the Attorney-General. My opinion is that it is the duty of the board of registration to see, so far as lies in their power, that no unauthorized person is allowed to register. To secure this end registers should be allowed to administer oaths and examine witnesses. The law, however, makes district commanders their own interpreters of the power and duty under it; and, in my opinion, the Attorney-General or myself can no more than give our opinion as to the meaning of the law; neither can enforce their views against the judgment of those made responsible for the faithful execution of the law, the district commanders.

The latter part of this dispatch shows that General Grant agreed also with Mr. Stanton in his opinion that the district commanders were not subject to any directions from the President as to their powers and duties under the law, but were to enforce their own judgment

upon their sole responsibility. When the opinion of the Attorney-General as to the qualifications of voters under the reconstruction law was promulgated on the 2d of June, as related in a preceding chapter, General Pope wrote to him, asking to be informed whether the circular contained in the Attorney-General's opinion was to be treated as a presidential order to him to conform his action to that opinion. To this General Grant replied as follows: —

Your dispatch of yesterday received. Enforce your own construction of the military bill until ordered to do otherwise. The opinion of the Attorney-General has not been distributed to district commanders in language or manner entitling it to the force of an order; nor can I suppose that the President intended it to have such force.[1]

General Sheridan wrote him on the 28th of June on the same subject, saying: —

The form and phraseology is not that of an order, but I may be mistaken, and ask for information whether I am to regard it as an order.

To this General Grant replied in exactly the same language as that contained in the dispatch last above quoted to General Pope.

Nothing better illustrates the views of General Grant as to the duties imposed by the reconstruction acts upon military commanders than the following extract from a dispatch from him to General Pope, under date of August 3, 1867: —

[1] As already shown, Mr. Stanton had formulated the communication transmitting this opinion to district commanders, and the President had approved it, while the Attorney-General had not.

I think your views are sound, both in the constructions which you give to the election laws of Congress and the duties of the supporters of good government, to see that, when reconstruction is effected, no loophole is left open to give trouble and embarrassment hereafter. It is certainly the duty of district commanders to study what the framers of the reconstruction laws wanted to express, as much as what they do express, and to execute the law according to that interpretation. This, I believe, they have generally done, and, so far, have the approval of all who approve of the congressional plan of reconstruction.

Seventeen years later, at the close of his life, General Grant thus refers to this period in his "Memoirs," vol. ii. p. 512: —

There being a solid South on one side that was in accord with the political party in the North which had sympathized with the rebellion, it finally, in the judgment of Congress and of the majority of the legislatures of the States, became necessary to enfranchise the negro in all his ignorance. In this work I shall not discuss the question of how far the policy of Congress in this particular proved a wise one. It became an absolute necessity, however, because of the foolhardiness of the President and the blindness of the Southern people to their own interest. As to myself, while strongly favoring the course that would be least humiliating to the people who had been in rebellion, I had gradually worked up to the point where, with the majority of the people, I favored immediate enfranchisement.

CHAPTER CIX

A Long Recess of Congress. — Tenure of Office Bill opposed by Stanton. — A Makeshift to avoid Impeachment. — Terms of the Military Reconstruction Act. — Repressive Policy discussed. — Home Rule long since restored.

On July 20, 1867, the day after the passage of the final supplementary reconstruction act, Congress adjourned until the 3d of November. This adjournment was strenuously resisted by many who thought the public safety demanded the continuous presence of that body, in order that its power might be used if necessary to prevent the President from executing his seeming purpose of defeating the operation of the reconstruction laws.

The exercise of the power of impeachment had been suggested as early as the 7th of January of that year. On that day the House of Representatives had adopted a resolution authorizing an inquiry into charges preferred against the President. Under this resolution the Judiciary Committee of the House reported on the 2d of March that the evidence taken was of such a character as to justify a continuance of the investigation by the succeeding Congress. Accordingly, on the 7th of the same month, almost immediately after the assembling of the new Congress, a resolution was adopted that the Committee on the Judiciary be requested to report on

the charges preferred against the President, on the first day of the meeting of the House after the next recess. Although the committee made no report at the time then appointed, its chairman, Mr. Boutwell, deemed it of the highest importance that no considerable recess should be taken which would prevent an early report.

A majority of the House did not share, however, in the apprehension that the progress of congressional reconstruction could be seriously retarded by the President. The Secretary of War and the general of the army were earnest in their support of Congress; the Tenure of Office Act made it unlawful for the President to remove the Secretary of War, or to suspend him for anything less than misconduct in office; and a clause in the Army Appropriation Bill required all military orders to be issued through the general of the army, who could not be removed, suspended, or relieved from command, or assigned to duty elsewhere than at headquarters, except at his own request, without the previous approval of the Senate. The execution of the reconstruction acts did not depend upon the President, for the additional legislation of that session devolved the duty of their execution upon the military commanders.

It cannot be denied that these measures were intended to deprive the President of powers usually exercised by his predecessors, and essential to the maintenance of the proper independence of the Executive Department as a coördinate branch of the government. Mr. Stanton himself opposed the Tenure of Office Bill, and while it was yet pending advised against its passage. It was

defended in Congress as a necessity for the protection of the Secretary of War against the President's desire to remove him, and because his removal was regarded by Congress as a menace to the public safety. When the bill reached the President, Mr. Stanton advised him against its approval; when it was vetoed, he desired its reconsideration and defeat in Congress; but when it became a law, he denied the President's right to disobey it. The requirement that the President should not issue orders to military officers, except through the general of the army, was no doubt technically within the constitutional power of Congress to pass all laws necessary for carrying into execution the powers vested in any officer; but it was an unseemly thing thus to degrade the presidential office instead of removing its incumbent. Certainly, if the President had become so dangerous as to require these restraints to be placed upon him, he must have been guilty of conduct which made his impeachment a duty.

But impeachment was opposed by many on the ground that the "high crimes and misdemeanors" for which alone the President or any other officer may be impeached under the Constitution must be included within the criminal code, and must be acts designated by law as crimes. The broader interpretation given by many of the ablest men of the Senate, as members of the High Court of Impeachment, was that it was for that tribunal to determine whether the acts of the President were such violations of duty, and such dangerous manifestations of hostility to the law-making power, as to constitute high crimes and misdemeanors within the

meaning of the Constitution. The practical fact was that a majority of the House was at that time opposed to impeachment, while a vast majority of both Houses were determined that the reconstruction laws should be enforced. Those, therefore, who objected to the Tenure of Office Law, and to the limitation upon the military authority of the President, as commander-in-chief of the armies, felt constrained to waive their objections and give their consent to this legislation as the only alternative to what they deemed the revolutionary and destructive course of the President.

Before proceeding further, it is well to call the attention of the reader to the conditions of the first reconstruction act under which the people of the South were to proceed with the work of organizing state governments. Section 5 of that act reads as follows: —

Sec. 5. That when the people of any one of said States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion, or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority voting on the ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and

when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress, and known as Article Fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oaths prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: Provided, That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

In this law, approved March 2, 1867, — nearly two years after the surrender of Lee, — the negro was for the first time given a voice at the ballot-box as to what disposition should be made of himself. Up to that time the Southern white people, under the Johnson plan, had full sway, and their course showed that they were still of the opinion that "the negro had no rights which any white man was bound to respect." Harsh as were the conditions of the reconstruction act, it is a part of the history of those times that they could easily have been avoided by acquiescence in the ratification of the Fourteenth Amendment. When that was rejected, the great body of the Union party of the United States believed, with Congress, and Mr. Stanton, and General Grant, that the nation could honorably pursue no other course than to insist that, in the work of reconstruction, the freedmen should have the right to defend, with

their own vote, in the South at least, the inalienable rights of life, liberty, and the pursuit of happiness which the stronger race persistently refused them.

Congress claimed and exercised the power to recognize the changed condition of the blacks, and to confer upon them the right to participate in reconstruction with all others who had not participated in the rebellion. Upon the question of exclusion of the ex-rebels from this work President Johnson expressed himself affirmatively with much vehemence at the White House on the 21st of April, 1865, in response to an address by Governor O. P. Morton, heading a delegation of citizens from Indiana. In a speech at Nashville, June 9, 1864, he said: —

But in calling a convention to restore the State, who shall restore and reëstablish it? Shall the man who gave his influence and his means to destroy the government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled. All the glorious victories won by our noble armies will go for nought, and all the battlefields which have been sown with dead heroes during the rebellion will have been made memorable in vain. Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration. If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely. I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He

forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our government.[1]

All this must seem very strange to the present generation. It is difficult to realize that for four years the great body of the Southern people refused to be considered citizens of the United States, and fought during those years to wrest from national jurisdiction the territory of eleven States of the Union, in which, for that length of time, they had maintained a hostile central government.

Happily the nation has long since been restored, and peace reigns throughout its borders. All the States are fully enjoying the exercise of their rights under the Constitution, and by common consent each is working out its own destiny without pressure from the general government.

The constitutional amendments prohibiting the States from denying to any citizen equal civil rights, or political rights on account of race or color only, form the test by which the party that sustained Congress is to be judged by posterity. As to the policy under which these constitutional rights could best be secured, there was for a time a wide difference of opinion. Energetic federal intervention seemed to President Grant, and his supporters, to be imperatively demanded by then existing conditions. As time elapsed, public opinion, which had previously sustained a repressive policy, changed, and the newly enfranchised people were left to the ordinary remedies of judicial proceedings, and to public opinion in the several States.

[1] McPherson's *Reconstruction*, page 46.

The men who wrought for justice to the emancipated race during the decade following the war accomplished the great results above described. Not only this, but they held in check to a considerable extent, during that period, a passionate people whose pride had been wounded and whose resentment had been aroused by defeat, and who would, if not thus restrained, have been almost certain to work permanent harm to themselves and to the nation. This would have resulted from their unwillingness to allow the abolition of slavery to be followed by the real freedom of the negro. Disturbing as negro enfranchisement was, the negro would have been a still more disturbing factor had his emancipators left him balancing between freedom and slavery in the land of his former master and of himself. His virtual reënslavement, under black codes enacted by the States, was attempted and promptly prevented by the federal government. His presence in the South as a freeman, and his legal right to vote, taken together with the intense race prejudice of which he is the object, and which he resents, constitute one of the most difficult problems in modern civilization.

The immediate emergency under which the ballot was placed in the hands of the negro passed away when the Fourteenth Amendment became a part of the Constitution. There was no danger that three fourths of the States would ever consent to the repeal of this beneficent provision. But it was certain that, had reconstruction stopped at this, a struggle would have been precipitated in the Southern States for the elimination of black suffrage from their new state constitutions.

It cannot be doubted that at this juncture of affairs the question of political power became an important and controlling element. With white suffrage only, there was no hope in the South for the party of the Union. The leaders of that party thought there would be danger in this. A solid political South might secure enough allies in the North to make a majority of senators and representatives, and of presidential electors. Southern rule so soon after the war was regarded by many as dangerous to the public peace, and as likely to reverse the results; and so, after much deliberation and the consideration of many propositions, Congress submitted to the States the Fifteenth Amendment in its present form, and it was ratified. It did not impose any suffrage test, but provided that the right to vote should not be denied "on account of race, color, or previous condition of servitude." Any other tests than these the States might impose. Illiteracy, pauperism, immoral character, or any of the known tests for insuring a safe and prudent limit upon the elective franchise, might be established by any State without conflicting with the Fifteenth Amendment, but such tests must be applied equally to whites and blacks. It was evidently the purpose of the framers of the amendment to avoid the wholesale extension of suffrage to ignorant negroes; but they were driven by the logic of the case to exclude ignorance in the same degree among the whites.

There is a provision in the Fourteenth Amendment which bears upon this subject. It reduces the basis of representation in Congress, of any State, proportionately with the reduction of the number of voters, for any

other cause than age, sex, crime, or participation in rebellion. This applies equally to all the States of the Union.

As the constitutional amendment leaves the States entirely free to give the ballot to the superior portion of each race, and to withhold it from the ignorant, the ill-conditioned, and the ill-behaved of each, the friction caused by negro suffrage ought easily to be reduced to the minimum.

The grave troubles which are due to mere race antipathies are far more difficult of treatment. Their solution has not yet been found.

PART XI

STANTON'S STRUGGLE WITH JOHNSON. — ITS RESULTS. — STANTON'S DEATH

CHAPTER CX

General Grant's Warning to President Johnson. — Stanton's Refusal to resign from the Cabinet at the President's Request brings upon him Severe Criticisms and also Strong Indorsements.

CONGRESS having construed its own acts by the final supplementary reconstruction act of July 19, 1867, — the terms of which were incapable of a doubtful construction, — and having adjourned, the President determined upon displacing Mr. Stanton as Secretary of War, and making new assignments of commanders to the military districts of the South. The work of reconstruction under the law might yet be retarded, if placed under the supervision of unfriendly or lukewarm commanding officers. He deemed it prudent before taking any decisive step in this direction to consult General Grant, which he did on the 1st of August. The result of this conference is given by General Grant in the following letter to the President later on the same day, which he marked "private:"[1] —

[1] It subsequently became a public document.

SIR, — I take the liberty of addressing you privately on the subject of the conversation we had this morning, feeling, as I do, the great danger to the welfare of the country should you carry out the designs then expressed.

First. On the subject of the displacement of the Secretary of War. His removal cannot be effected against his will without the consent of the Senate. It is but a short time since the United States Senate was in session, and why not then have asked for his removal, if it was desired? It certainly was the intention of the legislative branch of the government to place cabinet ministers beyond the power of Executive removal, and it is pretty well understood that so far as cabinet ministers are affected by the "Tenure of Office Bill," it was intended specially to protect the Secretary of War, whom the country felt great confidence in. The meaning of the law may be explained away by an astute lawyer, but common sense and the views of loyal people will give to it the effect intended by its framers.

On the subject of the removal of the very able commander of the fifth military district,[1] let me ask you to consider the effect it would have upon the public. He is universally and deservedly beloved by the people who sustained this government through its trials, and feared by those who would still be enemies of the government. It fell to the lot of but few men to do as much against an armed enemy as General Sheridan did during the rebellion, and it is within the scope of the ability of but few in this or any other country to do what he has. His civil administration has given equal satisfaction. He has had difficulties to contend with which no other district commander has encountered. Almost, if not quite, from the day he was appointed district commander to the present time, the press has given out that he was to be removed; that the administration was dissatisfied with him,

[1] General Philip H. Sheridan.

etc. This has emboldened the opponents to the laws of Congress within his command to oppose him in every way in their power, and has rendered necessary measures which otherwise may never have been necessary. In conclusion, allow me to say, as a friend, desiring peace and quiet, the welfare of the whole country, North and South, that it is in my opinion more than the loyal people of this country (I mean those who supported the government during the great rebellion) will quietly submit to, to see the very men of all others whom they have expressed confidence in removed.

I would not have taken the liberty of addressing the Executive of the United States thus but for the conversation on the subject alluded to in this letter, and from a sense of duty, feeling that I know I am right in this matter.

Unable to secure General Grant's concurrence to the removal of Secretary Stanton, President Johnson demanded the latter's resignation in the following note, dated August 5: —

SIR, — Public considerations of a high character constrain me to say that your resignation as Secretary of War will be accepted.

This was not a request for the resignation of a cabinet officer on the ground of a merely personal objection. It carried with it the assertion that his continuance in the Cabinet would injuriously affect public interests. Secretary Stanton immediately replied as follows: —

SIR, — Your note of this day has been received, stating that public considerations of a high character constrain you to say that my resignation as Secretary of War will be accepted.

In reply I have the honor to say that public considerations

of a high character, which alone have induced me to continue at the head of the department, constrain me not to resign the office of Secretary of War before the next meeting of Congress.

This was equivalent, of course, to saying that Mr. Stanton believed the public interests might be endangered by his resignation before the assembling of Congress. It was obvious that the President desired to place at the head of the department a secretary who would aid him in retarding the work of reconstruction. Otherwise he would have sent to the Senate a nomination for the place while it was yet in session, only sixteen days before. The President did not want a Secretary of War whose nomination could receive the approving votes of a majority of the Senate.

A dominant reason for this may easily be seen. There was nothing compulsory upon the people of the South in the reconstruction measures as to when state governments should be organized. These acts simply provided the methods which should be followed, and prescribed the qualifications for voters; but these voters were to determine at the polls whether to remain under military rule or frame civil governments preparatory to being restored to representation in Congress. The President had a lingering hope that by the aid of a subservient Secretary of War, and new military commanders devoted to his cause, he might control the elections, defeat all movements for new state governments, and thereby continue military rule, until he could make another effort in a congressional campaign to reverse the policy of Congress. Mr. Stanton's con-

tinuance in the War Department would extinguish this hope.

The publication of the President's demand for Stanton's resignation brought to the latter a flood of letters, earnestly calling upon him to stand firmly at his post. These came from people in all walks of life. For a cabinet minister to insist upon remaining in office against the desire of his chief was of course unprecedented; it reversed all preconceived ideas of official propriety; but the occasion which prompted Mr. Stanton's course was also unprecedented.

The President had boisterously denounced Congress, questioned its legitimacy, and denied its power to legislate upon the terms of peace which should be imposed upon the defeated enemy. His message accompanying the veto of the final reconstruction act of July 19, 1867, was if possible more defiant than those which had preceded it, and clearly showed it to be his intention to prevent the execution of the laws. Three of the Cabinet had resigned soon after his purpose became apparent. Mr. Stanton had been urged by the Union leaders not to leave the War Department to the control of those who had organized and sustained the Confederate cause.

Congress, under a clearly defined granted power, had enacted the laws it deemed "necessary and proper" for carrying into execution the power vested in the President to take care that the laws be faithfully executed. This they had done to meet the strange emergency of his avowed purpose to take care that the laws should not be faithfully executed. Having thus, as they supposed, bound him by statutes, they looked upon Sec-

retary Stanton and General Grant as the safeguards against Executive usurpation.

Of course the President and his supporters in the South, faithfully echoed as they had ever been in the North, were very much shocked at Mr. Stanton's refusal to resign his great trust. He was then fifty-three years of age. He had been district attorney during his twenty-first year in a county in Ohio, and had in early life been for three years reporter of the decisions of the Supreme Court of that State. This had been the extent of his office-holding up to December, 1860. His life had been devoted to his professional labors, and he had attained a leading position at the bar. He had consented to enter the Cabinet of Mr. Buchanan during the last two and a half months of its existence, and had there rendered services to the country of incalculable value. His call to that position, neither sought nor desired by him, was without previous notice. His appointment to Mr. Lincoln's Cabinet was not sought by him, and was made without consultation with him in the face of a strong and unconcealed prejudice he entertained against Mr. Lincoln at that time. He had now for six years labored beyond the natural powers of any man, and in the performance of his duties and in the protection of public interests had been compelled to make many enemies. Office had been to him desirable only as it enabled him to aid the patriotic cause during the war, and during the period of the issues which naturally grew out of it. Despite all these facts, his enemies sought to force his resignation by belittling his motives, and seeking to create a public impression that

a mere desire for office governed his action. But he was made of sterner stuff than they had calculated upon. He would not desert his post. He would not facilitate the revolutionary purposes of the President by making way for some supple and servile instrument. Had he resigned, the President could have appointed any person he pleased, and, under the Constitution, the appointee would have held until the close of the next session of the Senate, unless sooner displaced by some other person nominated by the President and confirmed by the Senate. There was no probability that the President would appoint any man who could be confirmed. He need only present one objectionable candidate after another until the adjournment of the Senate, and then select another equally pliable instrument to act during the recess.

Mr. Stanton earned and received the gratitude of the great body of the patriotic people of the country for the heroic stand he took at that time. His high purpose, strong will, and tremendous force of character at this most important crisis defeated the reactionary plans of the President, and left the way open for the measures which preserved the results of the war, and which imbedded in the Constitution of the nation the principles of universal freedom and the equality of all men before the law.

From the numerous letters received by Mr. Stanton expressing the gratitude of the writers for his refusal to resign his office, some extracts are given to show the esteem in which he was held, and the motives by which he was believed to have been governed.

Hon. William B. Allison, of Iowa, wrote him August 11: —

I thank you in the name of my constituents for the firm position you have taken against the obstinate and unjust man who holds the Executive power of the nation. I can say that for myself, so far as I have any power, it shall be used faithfully to uphold you.

Senator Howard, of Michigan, wrote August 10: —

"Being in," stand firm and don't yield an inch. The country is with you.

Hon. Marcus L. Ward, governor of New Jersey, wrote August 5: —

The rumors of your resignation and retirement from the Cabinet have disquieted me. As long as Stanton and Grant stand together in defense of the loyal policy of the country, regardless of clamor, so long, have I said to myself, will we have a breakwater against the mad waves of faction. I know there may be circumstances which compel a man of honor to withdraw from an administration, but yours is a case which rises above such circumstances. I know, and the country knows, that your continuance in office has been a sacrifice on your part. There was a time when it was misconstrued, but that period has passed.

Cortlandt Parker wrote from Newark, New Jersey, August 6: —

The country appreciates the sacrifices you have made in remaining there, and your high motives in doing so. There are many things Mr. Johnson would have attempted, but dared not think of them, because you are at the head of the department.

Professor John W. Draper wrote as follows, August 7:

So the President has perpetrated his folly, and you have answered him as we all thought you would. It should strengthen you in your vexatious contest to feel that the intelligence and patriotism of the nation are with you. He may annoy you at the present, but he can never touch the past.

Bellamy Storer, writing from Cincinnati August 7, said: —

Do not, under any circumstances, consent to withdraw from the Cabinet. The people will sustain you to the fullest extent in vindicating, as you have always done, the honor of the nation and your own self-respect.

John Jacob Astor, Jr., wrote from New York August 8: —

At the risk of being considered intrusive, I cannot refrain from telling you how deeply your friends sympathize with you at the present moment, and with what great satisfaction they have watched your course during the events that have lately transpired. I can only say that you have added to our feelings of security, and have strengthened our hopes for the future of our country.

J. P. Usher, who was Secretary of the Interior under Mr. Lincoln, wrote: —

I am aware of the extreme difficulty and unpleasantness of your present position, but hope that no consideration of personal convenience to yourself will induce you to swerve from your declared purpose. I believe that the reason assigned, which constrained you from surrendering your office, entirely justifies, nay more, that it imperatively demands, that you should hold steadfast to your purpose.

Senator Howe, of Wisconsin, wrote August 9: —

The newspapers say that the President wants you to resign. I presume that is true. They also say that you will not resign. I hope to God that is true. My judgment is, you ought not to resign, and my hope is, you will not resign.

Hon. Lot M. Morrill, senator from Maine, wrote August 9: —

I do not hesitate to assure everybody that you will not voluntarily abandon nor be driven from your post of duty. The interests at stake are not different nor less important now than when rebellion was flagrant.

Hon. Samuel Hooper, of Massachusetts, wrote August 8: —

I shall be quite satisfied with whatever your judgment determines to be right in this matter, but as I see it now, I cannot but hope you will determine to sacrifice your inclinations for the good of the country, as the feeling is very general at the North that your being at the War Department prevents much mischief.

Judge Leavitt, an old and valued Ohio friend, wrote August 9: —

Your friends and the great party with which you are identified fully appreciate your disinterested patriotism in continuing in your present place under circumstances which cannot be otherwise than distasteful to you, and which must involve a sacrifice of personal comforts.

Thomas Evans, a Pennsylvania Friend, wrote from Philadelphia August 8: —

Many are looking to thee and to thy remaining in the Cabinet as an important safeguard to the government, exercising a very salutary check upon the carrying out of measures which would prove injurious to the country. . . . The good

you have done as well as the mischief you have prevented entitles you to the gratitude of the country, and making this last sacrifice of retaining your position in the Cabinet will greatly enhance your claims upon it.

Senator Cragin, of New Hampshire, wrote: —

I desire to thank you, in the name of the loyal people of New Hampshire, for the bold and patriotic stand you have taken in refusing to resign your office at the request of a man who has shamefully betrayed the interests of his country, and the party that elevated him to power.

Hon. F. A. Pike, of Maine, wrote August 10: —

I know it is disagreeable and uncomfortable to the last degree to retain your position, but still you ought to do it until all the preliminary reorganization steps are taken by the rebel States and the elections got through with.

Hamilton Ward, a representative from New York, wrote August 7: —

I do not presume to advise you as to the course you should take in case the President seeks to "muster you out," but allow me to express the firmest hope (which is also the feeling of the loyal millions of this land) that you will stand at your place and retain the place that the law gives you, the President to the contrary notwithstanding.

Ex-Governor Clifford, of Massachusetts, wrote August 8: —

Your reply to the Executive rescript is received everywhere with a sense of grateful and refreshing feeling that the "most important public considerations" are still recognized as among the obligations resting upon public men in determining their course, however much they may conflict with private ease or personal comfort.

E. Littell, the publisher of "Littell's Living Age," wrote from Boston August 7: —

I cannot send away the envelope addressed to your office without giving expression to the hearty respect and sympathy of a loyal man, and praying you to keep your feet firmly at your post. Congress only expressed the national dependence upon your tried virtue.

CHAPTER CXI

Stanton suspended by the President. — Grant accepts Appointment as Secretary of War *ad interim*. — Letters sustaining Stanton.

It took the President just one week to decide upon his next step. He was unwilling to ignore the loud protest of General Grant against the Secretary's removal. He well knew that the general was right when he said that "the Tenure of Office Bill was intended specially to protect the Secretary of War." The second section of that act provided for the suspension of officers who "were shown by evidence satisfactory to the President to be guilty of misconduct in office, or crime, or for any reason incapable or legally disqualified to perform its duties." In cases of suspension, some suitable person was required to be designated to perform temporarily the duties of such office until the next meeting of the Senate, and until the case should be acted upon by that body. It further provided that if the Senate at its next session should refuse to concur in such suspension, the officer so suspended should forthwith resume the functions of his office. On the 12th of August the President addressed the following communication to Mr. Stanton: —

Sir, — By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby suspended from office as Secretary of War,

and will cease to exercise any and all functions pertaining to the same. You will at once transfer to General Ulysses S. Grant, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

General Grant transmitted a copy of his assignment as Acting Secretary to Mr. Stanton, accompanying the same with a note, the conclusion of which was in the following language: —

In notifying you of my acceptance, I cannot let the opportunity pass without expressing to you my appreciation of the zeal, patriotism, firmness, and ability with which you have ever discharged the duties of Secretary of War.

The Secretary addressed the following reply to President Johnson: —

Sir, — Your note of this date has been received, informing me that, by virtue of the power and authority vested in you as President by the Constitution and laws of the United States, I am suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same, and also directing me at once to transfer to General U. S. Grant, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in my custody and charge.

Under a sense of public duty I am compelled to deny your right, under the Constitution and laws of the United States, without the advice and consent of the Senate, and without legal cause, to suspend me from office as Secretary of War, or the exercise of any or all functions pertaining to the same, or without such advice and consent to compel me to transfer

to any person the records, books, papers, and public property in my custody as Secretary. But inasmuch as the general commanding the armies of the United States has been appointed *ad interim*, and has notified me that he has accepted the appointment, I have no alternative but to submit, under protest, to superior force.

It should be especially observed that Mr. Stanton held that he had been suspended "without legal cause," — in violation of the Constitution and laws of the United States. No cause had been named in the order of suspension. He would surrender the department under protest, because the general of the armies, who had accepted the appointment, represented a superior force, which could not be resisted. To General Grant Secretary Stanton wrote on the same day in similar terms, transmitting also a copy of the above letter. He concluded his note as follows: —

You will please accept my acknowledgment of the kind terms in which you have notified me of your acceptance of the President's appointment, and my cordial reciprocation of the sentiments expressed.

W. E. Dodge, of New York, wrote Mr. Stanton August 13: —

I am living up the North River twenty-five miles, and daily go up and down with a very large crowd of our city merchants, and for some days your position has been the subject of daily conversation, and I am pleased to say that I have not heard a word from any man other than approbation of your course, and condemnation of the course of the President, and you may rest assured that you never before had more of the confidence and sympathy of the best portion of the American people, and your devotion and self-sacrifice

during our years of national struggle will never be forgotten. Keep up good courage and your course will be fully vindicated.

Governor Buckingham, of Connecticut, wrote him August 13: —

As a telegram announces your suspension from official duty, I cannot refrain from expressing my personal obligations to you for continuing until this time to occupy the position of Secretary of War, under circumstances which were uncongenial to your taste and antagonistic to your personal comfort.

To your incorruptible patriotism, sleepless vigilance, untiring zeal, and executive efficiency are we, under God, indebted more than to the services of any other living man for the triumph over the rebellion. Impartial history will so make the record, a record which will be indorsed by the great mass of loyal citizens, and which cannot be defaced by the President.

Governor Morton, of Indiana, wrote to a friend September 9: —

I was deeply grieved by the suspension of Stanton, but am sure it will result in giving him a glorious triumph through the Senate. When Congress meets I shall take an early opportunity to give the country my opinion of his great and invaluable services, and think my opportunities to understand them have been good.

CHAPTER CXII

Mr. Stanton in New England. — Much depressed. — "One Interview with General Grant" would do Much to set him Right. — A Letter to Professor Draper.

THE suspension of Mr. Stanton afforded him the first opportunity he had had for a rest from work since January, 1862, — a period of more than five years and a half. What this work had been could be estimated only by those who had opportunities to observe it. Senators and members who had access to the department at all times found him at his desk at the earliest official morning hour, never knowing any limit to the duration of his daily labors. He worked all the day, and a great deal of the time far into the night.

Mr. Stanton accepted the invitation of Representative Hooper, of Massachusetts, to visit him at Cotuit Port in that State, and with his wife and daughter visited Boston on the way to that place. On the 22d of August the mayor and common council of Boston tendered him the ceremonial hospitalities of the city in resolutions eulogizing his patriotic services in the Cabinets of Presidents Buchanan, Lincoln, and Johnson. This Mr. Stanton declined in a letter expressive of his high appreciation of the testimonial. He said: —

My purpose in visiting your ancient commonwealth was truly stated in the preamble to your resolutions, namely, for

the reëstablishment of my health. I hope, therefore, to be excused from any public ceremony or attention, and that this will be received as an appropriate acknowledgment of the hospitalities tendered me by the municipal authorities of Boston.

On the 22d of August he wrote his son: —

In respect to public affairs I am entirely content so far as they have been disclosed. I see that Sheridan has been removed, as could not fail to be the case after Grant consented to aid Johnson. Every day increases my satisfaction at being out of Johnson's administration, and the mode of leaving it could not have been approved more highly. On all sides I have letters and invitations requesting me to visit particular places, all of which I decline. I shall probably pursue my professional designs and leave public cares to others.

On the 29th of September Mrs. Stanton wrote to Edwin L. Stanton from Hoboken, New Jersey, as follows: —

Among the letters received yesterday was one from you to your father, which was overlooked by him. Some time after, I saw it lying on the table, and took the liberty of opening it to see if it was any more cheerful in its tone than those already received from you. Finding it but a detailed account of the interview between Governor Morton and General Grant, I destroyed it. Your father is in very bad spirits; the least thing upsets him, and I do not see any use in troubling him about matters which he cannot attend to until he returns home. I think one interview with General Grant would do more to set matters right than all the letters that could be written. In the mean time do whatever you think best, and I have no doubt it will be satisfactory to him.

Mr. Stanton returned to Washington on the 8th of

October. The following letter addressed by him to Professor John W. Draper, November 20, is interesting: —

Your note of the 24th ultimo reached here during my absence in Ohio, and the few days that have elapsed since my return have been taken up by engagements requiring immediate attention. Please accept my thanks for the copy of your physiology, which is not only prized for its own merit, but as an additional token of regard that is very dear to me. If I rightly comprehend your idea as to the place and manner in which you proposed to treat the subject of the forces engaged in the war, it commends itself very strongly to my judgment as the most appropriate method of treatment.

As to the historical events which occurred from the time I went into the department in January, 1862, until January, 1863, the period that closes the second volume of your history, there do not occur just now to my mind many incidents of much interest that are not fully disclosed in the official reports and telegrams and correspondence that have already in some form been published, or are readily accessible. In order to revive the subject fully in my mind with accurate order and date, I shall at the earliest possible period arrange my own papers, and look over the official records, so as to furnish anything you may have overlooked or failed to obtain. In respect to myself and my official action, a telegram of General McClellan's which I think is omitted by him in his report, and a speech made by Mr. Lincoln at the Capitol about the time of the Peninsula disasters, or shortly after, furnish a full answer to McClellan's complaints.

While I assent to your maxim that a public officer owes something to himself in seeing that the truth is told concerning his acts, yet I have never been able to overcome the feeling that in a great contest like ours, involving the life of a nation and the welfare of a race in all that concerns life, liberty, and happiness, merely individual action is too insig-

nificant to waste time and labor in its vindication. And hence I have felt it the better part to bear in silence what might easily be answered or repelled, without regard to the source or motive of the accusation. But of this we can talk more at large when we meet, as I hope to see you here soon. It is my purpose to devote a few weeks of leisure before reëntering actively upon professional labors to the arrangement of such papers as appear worthy of preservation, and whatever information they contain or I possess will be at your service.

The following expression in a letter to the Hon. David Paul Brown, of Philadelphia, dated November 14, is one of the many similar ones in which he forbade his friends to think of him in connection with any office : —

Your kind sentiments towards myself I have had frequent occasion gratefully to acknowledge, and they are cordially reciprocated. It may not be improper to add that while duly estimating the personal preference expressed in your note, no possible contingency can induce me to be a candidate for any official station.

CHAPTER CXIII

The Meeting of Congress. — The President informs the Senate of Stanton's Suspension and assigns Reasons therefor. — Stanton's Reply. — The Senate reinstates him in the War Office. — Stanton on the Suspension of Exchange of Prisoners.

On the 12th of December, 1867, the President sent a communication to the Senate relating to the suspension of Mr. Stanton. The reasons assigned by him for this act are stated in Mr. Stanton's reply, which is as follows: —

To the Senate of the United States: —

The President having sent to the Senate a message relating to my suspension from the office of Secretary of War, I beg leave respectfully to submit an answer thereto, in terms which shall be tempered by the self-restraint and decorum due to the dignity of the Senate and the high office from which I have been suspended.

The reasons assigned for my suspension are in substance:

1st. That my answer to the President, declining to resign before the meeting of Congress, and my protest against suspension were defiant.

2d. That I advised the President to veto the bill regulating the tenure of civil officers, and now insist upon compliance with its provisions.

3d. That I was the author of, and approved, but now oppose what is called the President's reconstruction policy.

4th. That I gave no instructions to General Baird in answer to his telegram to me dated the 28th of July, and did

not communicate it to the President before the New Orleans riot, and that I did not exculpate the President from the charge of responsibility for the riot.

These accusations will be answered in their order, omitting notice of covert and irrelevant insinuations, purposeless except for aggravation and insult.

I. Mr. Johnson's letter to me of the 5th of August last stated that public considerations of a high character constrained him to say that my resignation, if tendered, would be accepted. The professed constraint, by public considerations, indirectly imputed official delinquency on my part, so that my resignation would be equivalent to a resignation under charges, and with a view to escape their consequences by taking advantage of a gracious tender of mercy, and I be exposed to the assaults of enemies and deprived of all chance of investigation by the Senate or of public vindication by any mode. I did not choose to become the victim of such astute device. But my response, if defiant, defied only unjust imputation ; and in declining to resign I did no more than accept an option in Mr. Johnson's letter, preferring to abide such alternative action as might be held in reserve against me. Nor is the protest in my second letter any justification of Mr. Johnson's act, because it was made after the order of suspension to exclude any imputation of assent to his act, and was a proper measure of self-defense to compel specification and obtain the hearing which the Tenure of Office Act secured. This was due to those who had sustained my official action, and had a right to know for what fault Mr. Johnson suspended me.

But that my letters, besides not justifying, did not even occasion Mr. Johnson's hostility, but are now put forth as pretexts, is proved by General Grant's private letter to him, which shows that as early as the 1st of August he had resolved to displace me from the War Department. The message also confesses that this conclusion had been determined

upon prior to any correspondence, because "mutual confidence and accord had ceased." This being, by Mr. Johnson's confession, the reason for my suspension, I had as much right and as good grounds as he to claim for my conduct the merit of public considerations, and no obligation of duty required me to resign or accord with him against my judgment of right.

Surprise is expressed in the message that I did not resign at the meeting of Congress. If Mr. Johnson had suspended his action until the meeting of Congress, he might have reasonably expected my resignation, but his movement against me, under the Tenure of Office Act, made the duty imperative to compel specification of charges.

II. My alleged opposition to the bill regulating the tenure of civil offices presents the singular complaint of agreement in one instance with Mr. Johnson. I did oppose the Tenure of Office Bill; so did he. But when it became a law by a two thirds vote over the veto objections, it was his duty and mine, as executive officers, to respect and obey it.

If, however, it is inconsistency for one who has opposed a bill to take advantage of its provisions after it has become a law, Mr. Johnson is the first and chief offender. He made the first appeal to the Tenure of Office Act. He might have taken the responsibility of removing me instead of arguing against the law; by suspending instead of removing me, he was the first to resort to an act which he had vetoed.

My disapproval of the measure when it was but a bill, and especially to that part which retained members of the Cabinet, was no secret, in or out of Cabinet. When the bill was before Congress, I advised against its passage. It was publicly advocated in the debates in Congress as necessary to protect the Secretary of War against Mr. Johnson's hostility. But while thankful for the confidence this evinced, I asked no protection; Mr. Bingham[1] was requested to ask my friends

[1] A representative from Ohio.

to have that provision stricken out; and after the bill passed, I hoped it would be reconsidered and fail after veto, and would cheerfully have stated my objections in the form of a veto, had time and health permitted. If, then, the purpose of this charge is to degrade me by the insinuation of disingenuous opposition in Cabinet to a bill favored by me outside, that purpose fails; because the charge is untrue in fact.

The argument based upon my objections to the measure when it was only a bill, open to discussion and criticism, has no relevancy to the case before the Senate. As Congress, in spite of Mr. Johnson's opposition and mine, reserved the right of final judgment on the removal or suspension of an officer, it was no misconduct to protest against the violation of the Tenure Act in my person, unless it be wrong to conform to a law disapproved before its passage. This seems to be Mr. Johnson's view, and forms an aggravation of my offense. Yet, having vetoed it, he claimed the first benefit of the Tenure Act to displace the head of a department.

The course pursued by Mr. Johnson in the period between the time when the Tenure Bill was under consideration and the time when I declined to resign may also be referred to in this connection. His disposition and intention in respect to the laws relating to reconstruction are indicated in his messages to Congress during that period, and in the nullification of two of the laws by construction. This certainly made it not less incumbent upon me to conform to the law and to carry out the desire of Congress, as twice declared in the passage of the Tenure Act.

III. The accusation concerning my alleged participation in Mr. Johnson's reconstruction policy and subsequent antagonism to it is disposed of by references to well-known historical facts and public documents.

In considering the charge, care must be taken to distinguish between Mr. Johnson's paper or proclaimed policy antecedent

to the 12th of September, 1865, and his policy as afterwards announced and actually carried into practice in the rebel States. The first I supported; the other I opposed. The prominent feature of his earlier policy, as proclaimed, was the control of Congress over reorganization, and the protection of loyal citizens in their lives, persons, and property. The North Carolina proclamation indicated on its face that the Executive action was provisional only, and therefore subject to the control of Congress; the governor was called provisional, and the new constitution was to be presented for the national guarantee which Congress only could give. And upon application, on one occasion by Governor Sharkey, of Mississippi, and on another by Governor Marvin, of Florida, for instructions on different points, with a view to consistently carrying out the President's policy as then announced, twice did specific orders from Mr. Johnson, through Mr. Seward, who, as Secretary of State, was charged with reconstruction, officially declare, with the most solemn sanction, the paramount power of Congress over the provisional action of the Executive. The Executive instructions upon this point to Governor Sharkey were sent on July 24, 1865, and those to Governor Marvin on September 12, 1865. Another point of difference between the earlier policy as proclaimed, which I favored, and that which was carried out and afterwards announced, which I opposed, is in respect to admission of loyal citizens in the rebel States to the franchise, not excluding colored people therefrom. I advised that this should be done in the Executive orders or proclamations upon the subject of provisional reorganization in the rebel States; and, though Mr. Johnson was immovably opposed to bringing it about in that way, he yet professed that his objection was that such action would transcend Executive authority, and that his desire was that that result should be accomplished in what he considered the constitutional method. In August, 1865, in an official communication over his own signature,

he expressed to Governor Sharkey, of Mississippi, the opinion that the Mississippi convention then in session might, "as an example to the other States," extend the elective franchise to "all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than two hundred and fifty dollars, and pay taxes thereon." Such was the earlier proclaimed policy, not going, indeed, to the extent of my views, but to which I gave my assent as a provisional plan, subject to be approved, modified, or abrogated by Congress, and having in view the reorganization of civil government without rebel intervention, the security of the rights and lives of loyal citizens, and the admission of the intelligent and loyal to the franchise, without exclusion on account of color.

This earlier declared plan met much favor and general emphatic approval by public meetings, addresses, and political conventions. While this lasted, Mr. Johnson ascribed to me no share in originating the policy. The North Carolina proclamation, which he patched up, taking some scraps from a rough project of mine, some from his own notions, and some perhaps from other suggestions, when pieced together, was sent into the world as his policy; for more than two years he claimed it as his job. Not until it fell into disgrace, through the condemnation of his plan as carried out and afterwards announced, did he make any mention of help from me or any one else. On all occasions he boasted exclusive paternity of what he now lays at my door. But I accept my share of the responsibility in assenting to the North Carolina proclamation; for it professed to give security to the lives, persons, and property of all loyal citizens, and on its face, and as expounded by Mr. Johnson and Mr. Seward until the 12th of September, 1865, was subject to the control of Congress and favored the admission of loyal and intelligent colored men to the franchise; but in the actual policy practiced in the rebel

States and set forth after September, 1865, I had no lot or part except to advise against it.

When, abandoning the principles of the North Carolina proclamation, Mr. Johnson committed reorganization to persons who had been active rebels, military leaders, and commanding generals in the rebel armies, when freedmen and loyal whites were deprived of their rights, and their property, persons, and lives endangered and destroyed, then the actual policy appeared and demanded congressional action. At the meeting of Congress in December, when the committee on reconstruction was organized, Mr. Johnson put forth his claim of Executive power, and then commenced his contest with Congress, of which one stage is the displacement of the Secretary of War, others being marked by his veto of every reconstruction bill passed by Congress and their nullification by construction.

To support his claim of absolute authority over reconstruction, the message gives some extracts from my testimony before the Impeachment Committee in May last, but the same misfortune that happened to Sheridan's telegram befell my testimony, — the material part was left out. When interrogated as to my understanding of the powers of Congress over the President's policy, the following testimony, omitted from the message, appears on the record: —

"My opinion is that the whole subject of reconstruction, and the relation of a State to the federal government, is subject to the controlling power of Congress; and while I believe that the President and his Cabinet were not violating any law, but were faithfully performing their duty in endeavoring to organize provisional governments in these States, I supposed then, and still suppose, that the final validity of such organizations would rest with the law-making power of the government."

I always maintained the paramount power of Congress over reconstruction; and when he set up his claim to abso-

lute and exclusive control, this conflict of Executive power against the authority of Congress produced difference between Mr. Johnson and the Secretary of War, who stood alone, after the resignation of the Secretary of the Interior, Postmaster-General, and Attorney-General, against Mr. Johnson's claim of supremacy. The occasion of what the message terms irreconcilable differences of opinion between the President and the Secretary of War were the various acts of Congress exercising authority over the rebel States with a view to reorganization and to correction of the evils of the course followed there, the act for the admission of Colorado, and the act regulating suffrage in the District of Columbia. I advised Mr. Johnson to approve these acts. He vetoed them. The first bill passed by Congress bearing upon reconstruction received my support in Cabinet. It was the first Freedmen's Bureau Bill, which passed the House on February 6, 1866, was vetoed on February 19, and afterwards failed to receive the two thirds vote necessary to pass it over the veto. The other measures relating to reconstruction were the second Freedmen's Bureau Bill, the Civil Rights Bill, and the three bills establishing and regulating military government in the rebel States; of these, also, I advised approval. Mr. Stanbery's interpretation of the reconstruction acts of March 2 and March 28, 1867, was another subject on which the President and Secretary of War did not accord. This was many days under discussion and a record was kept of the votes, a part of which was published, but the residue, although called for by Congress, has been withheld.

Mr. Johnson confesses in his message that this difference of opinion was the real cause of my displacement; and he confesses, also, the indirect modes employed to displace a head of department without taking the responsibility, but casting it upon the officer. I may well ask the Senate to judge the accusations against me in the light of Mr. John-

son's acknowledgment of these indirect and irresponsible modes employed by him to extort my resignation without express request. This course, if successful, would have evaded the act of Congress, and by wanton means would have compelled me to abandon my trust and post. But it did not succeed.

Called from my profession to the administration of the War Department by Mr. Lincoln at a critical period of the war, its duties and responsibilities were encountered without shrinking until, by the blessings of Providence, the war came to an end. When requested by Mr. Johnson, after Mr. Lincoln's murder, to remain in the War Department, I did not feel at liberty to shun the new responsibilities and duties that must fall on the Secretary of War. But at no time did I conceive it my duty to accord with the President on all grave questions of policy and administration.

The duties of the head of a department are defined by law; his nomination, unlike those of ministers of royal governments having their own peculiar checks upon the crown, requires confirmation by the Senate. Of late a notion has crept in that heads of departments assembled together constitute a ministry whose members, each and all, are bound to accord with the President on all grave questions of policy or administration; but in this view I do not concur.

It is true that in this case personal considerations would have led me long ago to sever my relations with Mr. Johnson. But under authority of Congress, and Mr. Lincoln's order, I had as Secretary of War put over a million of men into the field. And I was unwilling to abandon the victory they had won, or to see the "lost cause" restored over the graves of nearly four hundred thousand loyal soldiers, or to witness four million of freedmen subjected, for want of legal protection, to outrages against their lives, persons, and property, and their race in danger of being returned to some newly invented bondage. For these reasons I was resolved

to bear all and suffer all contending against such results. Hence the indirect modes of displacing me failed of their purpose; and I am thankful that standing alone as I did, for twelve months, giving the President faithfully and frankly my best judgment on the grave questions in agitation, I had the endurance and fortitude to bear with tranquil patience the modes employed to induce me to surrender my post. If I have rendered any service to the country or done anything to maintain its peace, it was by standing resolutely at my post fearlessly to give Mr. Johnson good advice. Supported by the highest considerations of public duty, the tenacity of my purpose was proof against all indirect modes to displace me.

But in all these differences of opinion respecting Mr. Johnson's reconstruction policy, during a period of two years, while for a part of the time he, by his confession, was employing every mode to induce my resignation short of express request, it is not complained that my bearing was disrespectful, or other than was due from the head of a department to the chief Executive.

If, therefore, my official duty, not compelling me, as claimed in the message, to win and preserve Mr. Johnson's favor by according with him on all grave questions of policy and administration, required only diligence, obedience to the laws, and freedom from crime, misconduct, and physical, mental, and legal incapacity, then my action in respect to the reconstruction policy of Mr. Johnson affords no ground for displacing me from the War Department.

IV. The facts relating to the New Orleans riot have been so thoroughly investigated and discussed that a brief answer to the accusation now made against me will exhibit its groundless nature.

The venom of the charge is weakened by the fact that more than a year ago my accuser charged the responsibility for the New Orleans riot, in grosser language and more positive

terms, upon the Radical members of Congress; it now serves his purpose to accuse, with no more reason, the Secretary of War.

It appears to be a preliminary point of offense that I did not exculpate Mr. Johnson. The message says: —

"The delinquency of the President was heralded in every form of utterance. Mr. Stanton knew then that the President was not responsible for this delinquency. The exculpation was in his power, but it was not given by him to the public; and only to the President in obedience to a requisition for all the dispatches."

Mr. Stanton was not Mr. Johnson's accuser, but he could not exculpate him. Mr. Stanton knew on Sunday, the 29th of July, but not sooner, from General Baird's telegram, that a peaceable, legally authorized convention was to meet at New Orleans on Monday, the 30th of July; that the city authorities, some of whom had been rebels, threatened to arrest the members; and that General Baird had given warning against interference with the convention, and intended to protect the members unless otherwise instructed by the President. Mr. Stanton did not know or suspect, nor did General Baird until after the riot, that the city police meant to kill the members of the convention; that its enemies had been in conference with the President; that he, without notice to the Secretary of War, through an irregular unmilitary channel, hostile to the convention, had given assurance of military aid against the convention, and practically sent instructions to induce General Baird to withdraw military protection and assist the police. And Mr. Stanton also knew, after the riot, that a telegram from General Sheridan, relating to the riot, having been delivered to Mr. Johnson entire, as it was received, was speedily published in such a mutilated condition as appeared to excuse or justify the massacre; that correction was authorized by Mr. Johnson only when General Sheridan indignantly demanded the publication of the genu-

ine dispatch; that at St. Louis, when called upon to explain his responsibility for the New Orleans riot, Mr. Johnson, with full knowledge of all the facts, publicly charged the crime upon the Radical members of Congress, accused them of being its contrivers and fomenters, and declared that "every drop of blood that was shed is upon their skirts." With the knowledge of all the facts, five weeks after the massacre, while the ground was still smoking with the blood of the victims, he excused their slaughter on the ground that they had denounced him and were insurgents and traitors.[1]

And now, a year and a half after the event, more than twelve months after Mr. Johnson imputed the innocent blood of the New Orleans riot to the Radical members of Congress, he accuses me of some responsibility. But it will be noticed that I am not accused of any contrivance or positive complicity in the act. That charge is left unqualified and unretracted against the Radical members of Congress; but failure to instruct General Baird, or give his telegram to the President, is put forth as my offense. General Baird's telegram intimated no apprehension of violence, he expected none; as he had done and intended to do what was exactly right, there was no occasion to give him any instructions or apply to the President for instructions.

If the President believed that I was remiss in my duty relating to that dreadful transaction, he was then restrained by no tenure law, but had sole right of judgment and absolute power of removal. But when what he calls "irreconcilable differences of opinion" arose between us on the reconstruction laws, when "every mode short of express request" to resign failed to induce my accord, when an intimation that my resignation would be accepted proved no more successful in compelling me to abandon my post as the head of the War

[1] Mr. Johnson's St. Louis speech.

Department, then Mr. Johnson, having taken advantage of the Tenure of Office Act, and being necessitated to allege some ground for his action, thrust this charge before the Senate as a pretended reason for suspending me, on the 12th of August, from the office of Secretary of War.

The charge and pretext have the same character; and, refraining to designate them in terms excusable by the provocation, I deny the truth of Mr. Johnson's accusation against me for any remissness, official misconduct, or default in my action relating to the New Orleans riot, or the exculpation of Mr. Johnson for his responsibility therein.

Mr. Johnson's objections and citations against the act of Congress have no bearing upon this case. The law is in the statute-book, and is not a question for debate. His claim to the right to sever official relations with the head of a department for other causes than those prescribed in the act would annul the law which enumerates the grounds for which, and no other, the President may sever official relations by suspension during the recess of Congress, viz., misconduct in office, or crime, or becoming incapable or legally disqualified to perform the official duties. Not one of these causes is set up in this case, but a message is sent to the Senate containing little more than irrelevant and groundless insinuations against the Secretary of War, and objections to the act of Congress. To deal with Mr. Johnson's oft-repeated claim of power in spite of the law belongs to the Senate and is no task of mine.

Having now passed in review the various parts of the message to the Senate in the very order in which Mr. Johnson deemed them most effective for him, I aver that all the accusations and imputations of official misconduct therein charged or intimated against me are groundless and untrue.

Heretofore I have forborne to reply to accusations, content with the consciousness of adhering to duty, and unwilling to seek the good opinions of men otherwise than by the faithful performance of the tasks devolved upon me. And I

am influenced to answer these charges, not by their weight, for they have none, but in deference to the Senate of the United States.

The President's charges having been referred to the Committee on Military Affairs, that committee reported the following resolution and recommended its passage: —

Resolved, That having considered the evidence and reasons given by the President in his report of the 12th of December, 1867, for the suspension from the office of Secretary of War of Edwin M. Stanton, the Senate do not concur in such opinion.

This resolution was, after debate, adopted January 13 by a vote of 35 yeas to 6 nays, thirteen senators not voting.

During the debate, which was in executive session, an assault was made upon Mr. Stanton, calling in question his course at certain times during the progress of the war concerning the exchange of prisoners. It was especially charged that he had refused to exchange prisoners, thereby entailing much suffering upon great numbers of our soldiers confined in rebel prisons. At the request of Mr. Fessenden, Mr. Stanton furnished him with a clear and complete statement of what his action had been on the subject of the exchange of prisoners, including a complete explanation of the circumstances attending the suspension of such exchanges. This statement was dated January 13, 1868.

After making this detailed statement, — referring to every criticism ever made on the subject, — he em-

braces its entire substance in the following well-condensed summary and conclusion : —

The official documents prove that from the first hour Mr. Stanton entered the War Department until the end of the war he was earnest, zealous, and unceasing in his efforts to provide for, relieve, and liberate our prisoners who were in the hands of the rebels; that the suspension of exchanges was caused by the flagrant abrogation of the cartel and violation of the principles of civilized warfare in subjecting the officers in our army to the penalty of death for commanding colored troops; in refusing to release non-combatants captured in Pennsylvania and other loyal States; in refusing to release or exchange colored prisoners and subjecting them to the punishment of death; in releasing from parole and putting in the field the army captured at Vicksburg and Port Hudson, thereby raising a new army to conquer the government and slaughter its people; and that the starvation and exposure of our prisoners in rebel mews was a deliberate, barbarous policy adopted to secure the overthrow of the United States government. The charge of any default or neglect of duty by Mr. Stanton towards our prisoners of war is absolutely false and malicious.

Mr. Stanton commenced his statement as follows : —

The history of the exchange of prisoners and the official documents in relation thereto will be found in the report of Major-General Hitchcock, commissioner for the exchange of prisoners.[1]

The document thus referred to is a permanent record fully vindicating Mr. Stanton's administration of the War Department in all that relates to the exchange of prisoners and temporary suspensions of the same.

[1] Documents accompanying the Report of the Secretary of War, Executive Documents, 1st session 39th Congress, pages 1075–1099.

CHAPTER CXIV

Stanton again in the War Office. — Misunderstandings between him and General Grant. — Their Causes. — Controversy between Grant and the President. — President decides to remove Stanton.

When General Grant was designated as Secretary of War *ad interim*, in August, 1867, he called upon Mr. Stanton in person to arrange a time when it would be convenient for the latter to transfer to him the department. He naturally expected a similar courtesy upon Mr. Stanton's reinstatement. But early on the morning of the 14th — the day following the action of the Senate — Mr. Stanton went directly to the department, and took possession without any show of ceremony or any call upon General Grant. The latter thereupon avoided the Secretary's room, and delivered the key of it to Adjutant-General Townsend, saying that he might be found at his office at army headquarters. General Townsend delivered the key to Mr. Stanton. General Sherman states in his "Memoirs" that on the same day General Grant "expressed himself as by no means pleased with the manner in which Stanton had regained his office, saying he had sent a messenger for him that morning, as of old, with word that he 'wanted to see him.'"

There was something much more serious than a mere question of courtesy in this action by Mr. Stanton.

The claim had all along been made by the President and his friends that the legality of the suspension of Mr. Stanton did not rest upon the Tenure of Office Law, which law they declared to be unconstitutional. They contended, therefore, that the disapproval by the Senate of the suspension would not have the effect to reinstate Mr. Stanton, and they announced it to be the purpose of the President to maintain General Grant in possession of the office, and leave Mr. Stanton to contend for it in the courts. The all-important question, therefore, was, What view did General Grant take? Would he hold on and force Stanton into the courts to test the lawful power of the Senate? Or would he regard the vote of the Senate as the reinstatement of Stanton? General Grant had recognized and acted upon the right of the President to suspend the Secretary, without assigning any cause in the order of removal; would he now give effect to that provision of the law which provided that the Senate could set aside the suspension and reinstate the suspended officer? Mr. Stanton had no information on which to base an answer to any of these questions. If he could have known that General Grant would immediately notify the President, as he did, that he regarded the vote of the Senate as terminating his functions as Secretary *ad interim*, he would undoubtedly have extended the same courtesies that under similar circumstances had been shown to him. But, being in doubt as to General Grant's position, he pursued the prudent course of entering upon the possession of the office without conceding the right of any person to be consulted.

That General Grant contemplated no opposition to Mr. Stanton's return to the office is shown in the following letter addressed by him to the President on the 14th of January, but not known to Mr. Stanton on the morning of that day when he so unceremoniously resumed his office: —

SIR, — I have the honor to inclose herewith copy of official notice received by me last evening of the action of the Senate of the United States in the case of the suspension of Hon. E. M. Stanton, Secretary of War. According to the provisions of Section 2 of "An act regulating the tenure of certain civil offices," my functions as Secretary of War *ad interim* ceased from the moment of the receipt of the within notice.

Before leaving the subject, it may be well to explain the succession of misunderstandings by which these two great men were to some extent temporarily estranged. The Tenure of Office Act provided that any officer included within its provisions might be suspended for misconduct in office or crime, or if he became incapable or legally disqualified to perform its duties. The order for Stanton's suspension contained no assertion that either of these contingencies had arisen in his case. In his view, therefore, the War Department had been wrenched from him by the President in violation of the Tenure of Office Law, and General Grant had facilitated this action by consenting, equally in violation of law, to his own designation as Secretary *ad interim*. Mr. Stanton was unable to see how the general could deem it to be within the line of his duty to aid the President in such an enterprise. He had refused to resign because he believed the Presi-

dent desired his resignation only that he might make the War Department an instrument of his revolutionary purposes. That General Grant should allow his great name to be thrown into the scale against him in such a crisis greatly disturbed him. He very naturally doubted if the President would have attempted his suspension, in the state of public feeling then existing, if he had not been able to use Grant's name. At the time of this action, August 12, he did not know that General Grant had, on the 1st of that month, both orally and in writing, most energetically protested against his removal,[1] and orally against his suspension. Referring to this, General Grant wrote to the President February 3, 1868: —

> From our conversations and my written protest of August 1, 1867, against the removal of Mr. Stanton, you must have known that my greatest objection to his removal or suspension was the fear that some one would be appointed in his stead who would, by opposition to the laws relating to the restoration of the Southern States to their proper relations to the government, embarrass the army in the performance of duties especially imposed upon it by these laws; and it was to prevent such an appointment that I accepted the office of Secretary of War *ad interim*, and not for the purpose of enabling you to get rid of Mr. Stanton by my withholding it from him in opposition to law, or, not doing so myself, surrendering it to some one who would, as the statements and assumptions in your communication plainly indicate was sought.

General Grant's purposes were so straightforward and simple that it probably never occurred to him that

[1] See Grant's letter to the President, chapter cx.

any act of his required explanation. The President was in a violent frame of mind when he suspended Stanton,[1] and it was evident to General Grant that the question was, not whether he should be suspended, but who should temporarily take his place. Grant had to decide on the instant, and he accepted in order to prevent the designation of one who would obstruct the execution of the reconstruction laws. He deemed it wiser to temporarily act as Secretary of War, although his action might be misconstrued, than to allow the department to go into the hands of another, to whom he must yield, or with whom he must at once come in perilous collision.

It is to be regretted that General Grant had not at that time sufficiently broken through his habitual reticence to give Mr. Stanton the needed assurance that what seemed his unnecessary humiliation, and a gain for the President's scheme, was really the only way to keep the War Department indisputably in law-abiding hands during the four months of the recess of Congress.

Unexplained, General Grant's course in the matter had the appearance of a new departure, and was a surprise to the friends and supporters of Congress. It was encouraging to the Southern cause, because it seemed to imply a censure upon Mr. Stanton, the representative man of the party which supported Congress,

[1] The author is informed by a member of General Grant's family that, just before calling on Stanton with notice of his acceptance of the appointment of Secretary *ad interim*, the general said that "President Johnson had worked himself up to a white heat" on the subject.

and whose only fault had been his vigor in upholding the laws.

Mr. Stanton made his displeasure manifest in his letters to the President and to General Grant at the time of the suspension, in which he declared that he submitted under protest to superior force, the general of the armies having accepted the appointment. There could be no misconstruction of this language. It charged the illegal seizure of the department by the joint action of the President and General Grant, because no reason for suspension had been assigned in the order, as required by law, and declared that he vacated it only because it would be futile to resist the force which resided in the hands of the general. This was of course a severe reflection upon General Grant. It was doubtless so intended by Mr. Stanton, who deemed it just; and it was so construed by General Grant, who knew he had been governed by patriotic purposes only, and with no conscious disregard of law.

It was not, therefore, the discourtesy of Mr. Stanton in January, 1868, in resuming the War Office without notice to General Grant — then its occupant — which disturbed the relations between them, but the more serious misunderstanding caused by General Grant's action in the preceding summer, by which he displaced Mr. Stanton in the War Department, and seemed thereby to have formed an affiliation with the President.

General Grant's displeasure towards Mr. Stanton dated from that time. In a letter to the President dated January 28, 1868, he states that he had favored the appointment of Governor Cox, of Ohio, as Secretary

of War, "to save all embarrassment," and that at his request General Sherman urged this upon the President before the vote of the Senate reinstating Stanton. To General Sherman General Grant wrote, shortly after Stanton's reinstatement: —

> I called on the President and Mr. Stanton to-day, but without any effect. I soon found that to recommend resignation to Mr. Stanton would have no effect, unless it was to incur further his displeasure; and, therefore, did not directly suggest it to him. . . . I would advise that you say nothing to Mr. Stanton on this subject unless he asks your advice. It will do no good and may embarrass you.[1]

This makes it very evident that before as well as after Mr. Stanton's reinstatement, General Grant and General Sherman were willing to bring about the appointment of a new Secretary of War, if it could be one who would faithfully perform his duties.

Whatever there was of unpleasant feeling between Mr. Stanton and General Grant growing out of these events was speedily overshadowed by a violent controversy between the latter and the President, which commenced on the very day of Mr. Stanton's return to the War Office. The President, on receiving Grant's announcement that he had ceased to be Secretary of War *ad interim*, sent him a message saying he wanted to see him at the cabinet meeting. Grant attended, and, being treated as though still a member of the Cabinet, he reminded the President that he was no longer Secretary of War *ad interim*. In the presence of the Cabinet the President then claimed that Grant had

[1] See Sherman's *Memoirs*, 2d edition, vol. ii. p. 424.

agreed either to resign in advance of the Senate's action, or to hold on notwithstanding this action; and that he had confirmed this agreement on the 11th of January. He declared that but for this understanding he would have relieved Grant and appointed some other person before the vote of the Senate, as it was his purpose to appeal to the courts for a decision as to the constitutionality of the Tenure of Office Law. Grant positively denied that he had ever made any such agreement. He said that, in response to an inquiry of the President some time after he had entered the department, he had stated to him that he thought Stanton would have to appeal to the courts to reinstate him, if the Senate disapproved his suspension. He also stated to the President at the same time that he had not particularly considered the question, and that if he should change his mind, he would inform him of the fact. He said that on the 11th of January[1] he had informed the President that he had so changed his mind, and that he could not "hold on" in the face of an adverse vote of the Senate. The question of veracity thus directly raised resulted in further correspondence, in which each party adhered to his position. The correspondence may be found in McPherson's "History of Reconstruction," commencing at page 286.

Grant believed the President sought to avoid the responsibility of resisting Stanton's reinstatement by forcing upon him (Grant) the alternative of remaining in the department in violation of law, or of being accused by the President of violating an understanding

[1] The vote of the Senate was taken January 13.

with him that he would do so. In Grant's letter of February 3 he says: —

And now, Mr. President, when my honor as a soldier and integrity as a man have been so violently assailed, pardon me for saying that I can but regard this whole matter, from the beginning to the end, as an attempt to involve me in the resistance of law, for which you hesitated to assume the responsibility in orders, and thus to destroy my character before the country. I am in a measure confirmed in this conclusion by your recent orders directing me to disobey orders from the Secretary of War — my superior and your subordinate — without having countermanded his authority to issue the orders I am to disobey.

Notwithstanding the miscarriage of his plans, the President at no time abandoned the idea of displacing Secretary Stanton. He commenced a siege upon General Sherman to induce him to allow his name to be sent to the Senate for confirmation as his successor. General Sherman says: —

To effect this removal, two modes were indicated by the President, to wit: to simply cause him to quit the War Office building, and notify the Treasury Department and the army staff departments no longer to respect him as Secretary of War; or to remove him and submit my name to the Senate for confirmation.[1]

Sherman positively declined. He was at this time engaged in Washington as the president of a board of officers drafting proposed articles of war and army regulations. On the 1st of February he had completed this work, and then returned to his home in St. Louis. On the 13th of February he was distressed by a tele-

[1] See Sherman's *Memoirs*, 2d edition, vol. ii. p. 426.

gram announcing that the President had issued an order that he should command the Atlantic Division. Believing this to be preliminary to further efforts to force him into service as Secretary of War *ad interim*, he remonstrated so emphatically that on the 19th of February the order was rescinded. Two days later, February 21, the President made an order removing Stanton, and appointing General Lorenzo Thomas to be Secretary of War *ad interim*. This led to the impeachment of President Johnson by the House of Representatives and his trial by the Senate.

CHAPTER CXV

President's Order removing Stanton and appointing a Secretary *ad interim.* — Stanton resists the Order and notifies the Two Houses of Congress. — The Senate on the Same Day sustains Stanton. — Stanton remains in Continuous Personal Possession of the Department Night and Day for Several Weeks. — General Grant details a Military Guard to protect the Building and the Public Archives from Rumored Ruffianism. — The House votes to impeach the President.

THE order of the President for the removal of Mr. Stanton and the appointment of a Secretary *ad interim*, dated February 21, was as follows: —

SIR, — By virtue of the power and authority vested in me as President by the Constitution and laws of the United States, you are hereby removed from office as Secretary for the Department of War, and your functions as such will terminate upon the receipt of this communication.

You will transfer to Brevet Major-General Lorenzo Thomas, adjutant-general of the army, who has this day been authorized and empowered to act as Secretary of War *ad interim*, all records, books, papers, and other public property now in your custody and charge.

The order of the President appointing General Thomas directed him to "immediately enter upon the discharge of the duties pertaining to that office."

General Thomas was then adjutant-general of the army, to which office he had been appointed on the 7th

of March, 1861, but the duties of which he had not performed from the 25th of March, 1863, until the 14th of February, 1868, being detailed for duty meanwhile in various parts of the country. The duties of the office were performed during that time by Assistant Adjutant-General E. D. Townsend. It was not until President Johnson had determined to resort to extreme measures against Mr. Stanton that Thomas was sent for on the 13th of February. The President then gave him a note to General Grant, in response to which the general placed him in charge of the adjutant-general's office on the 14th. Four days after this, February 18, the President informed General Thomas of his purpose to make him Secretary of War *ad interim*, and on the 21st the appointment was made.

Mr. Stanton immediately sent copies of the President's order to the President of the Senate and to the Speaker of the House. On the same day he addressed the following note to General Thomas: —

> I am informed that you have presumed to issue orders as Secretary of War *ad interim*. Such conduct and orders are illegal, and you are hereby commanded to abstain from issuing any orders other than in your capacity as adjutant-general of the army.

To Senators Fessenden, Howard, and Edmunds he addressed the following note: —

> I am just informed that Adjutant-General Thomas is boasting at the hotels that he intends to take possession of the War Department at nine o'clock to-morrow morning. If the Senate does not declare its opinion of the laws, how am I to hold possession?

To Senator Conness he wrote later on the same day:

I am at the War Department, and mean to continue in possession until expelled by force. Lorenzo Thomas is not, so far as I know, issuing any orders as Secretary of War.

Before its adjournment on that day, the 21st, the Senate in executive session adopted the following resolution: —

Whereas the Senate have received and considered the communication of the President of the United States, stating that he had removed Edwin M. Stanton, Secretary of War, and had designated the adjutant-general of the army to act as Secretary of War *ad interim*, therefore —

Resolved by the Senate of the United States, That under the Constitution and laws of the United States, the President has no power to remove the Secretary of War and to designate any other officer to perform the duties of that office *ad interim*.

Resolved, That the Secretary of the Senate is hereby directed to communicate copies of the foregoing resolution to the President of the United States, to the Secretary of War, and to the Adjutant-General of the United States.

Secretary Stanton received his copy of this at ten o'clock on the same evening. He had not left the department, deeming his personal presence necessary to prevent its occupation by Thomas as a claimant under the President's authority.[1]

On the morning of the 22d Thomas appeared at the

[1] Late that night he made oath to a complaint against General Thomas for a violation of the Tenure of Office Act, and asked that a warrant be issued for his arrest. This warrant was served upon General Thomas at eight o'clock on the morning of the 22d, and at nine o'clock on the same morning he was taken before Chief Justice Carter. He gave bail for his appearance on the 26th instant.

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War Department to take possession, which was of course refused him, and he left. Threats having been made by him on that day, in the hearing of callers at the White House, that he was going to take possession of the War Department regardless of the course Mr. Stanton might pursue, and it seeming probable that the President contemplated using force, Mr. Stanton addressed the following communication to General Grant:

In order to protect the archives and public property in the War Department building occupied by the Secretary of War and under his charge, you will please direct a competent officer, such for instance as General Carr, to go on duty at the War Department building, reporting to me at seven o'clock this evening, and to remain until relieved by my order.

These events had created intense excitement at the capital and throughout the country. Upon the first announcement in the House of Representatives on the 21st of the attempted removal of Mr. Stanton, Hon. John Covode, of Pennsylvania, offered the following resolution: —

Resolved, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors.

This was referred to the committee on reconstruction. On the 27th of January that committee had been authorized to inquire what combinations had been made to obstruct the due execution of the laws. On the 22d of February the committee made its report, which declared that "upon the evidence collected by the committee, which is herewith presented, and in virtue of the powers with which they have been invested by the House, they are of the opinion that Andrew

Johnson, President of the United States, be impeached of high crimes and misdemeanors. They therefore recommend to the House the adoption of the following resolution." The resolution was the same as that offered by Mr. Covode. The report was signed by the seven Republican members of that committee, as follows: Thaddeus Stevens, George S. Boutwell, John A. Bingham, C. T. Hulburd, J. F. Farnsworth, F. C. Beaman, and H. E. Payne. The resolution was adopted on Monday, the 24th instant, by a vote of 126 yeas to 47 nays, not voting 17. Thaddeus Stevens, of Pennsylvania, and John A. Bingham, of Ohio, were appointed a committee to communicate this action to the Senate. George S. Boutwell, of Massachusetts, Thaddeus Stevens, of Pennsylvania, John A. Bingham, of Ohio, J. F. Wilson, of Iowa, John A. Logan, of Illinois, George W. Julian, of Indiana, and Hamilton Ward, of New York, were appointed a committee to prepare articles of impeachment.

In compliance with the request of Mr. Stanton, General Grant placed General E. A. Carr in charge of the War Department building and the archives it contained, and detailed a guard to act under his orders. He also empowered him to call upon any and all troops in and about the city. General William H. Emory was then in command of the Department of Washington, to which command he had been assigned on the 1st of September. He testified in the impeachment trial that soon after he went into this command he called the President's attention to the formation of a military force in Maryland which he did not like, and for which there

was no necessity. It was officered by gentlemen who had been in the Southern army, and the uniform worn was the gray.[1]

General Thomas presented himself at the office of the Secretary of War on the 24th of February, and said he came by order of the President, received from him verbally a few moments before, to enter upon his duties as Secretary *ad interim*, and that he designed so to do in conformity with the order. The Secretary commanded him not to presume to exercise any functions as Secretary of War, nor sign any papers as Secretary of War *ad interim*. Thomas replied: "Which order I shall disobey, of course."[2]

[1] General Carr stated many years afterward, in a letter to the author, that the guard at the War Department was posted by order of General Grant on the theory that the War Department building and the archives therein might have been in danger from ruffians from Baltimore and elsewhere, who might have imagined they were doing President Johnson a service by doing something violent towards ousting Secretary Stanton. Edwards Pierrepont wrote to Mr. Stanton from New York on the 25th of February: —

"Copperheads begin to cave in, and now say that Johnson is a blunderer and that they will drop him. The blunder of which they complain is that he appointed a man who did not force you out. . . . I wish to warn you, and again to urge you not to give Thomas a chance to get possession by ruffians or other force. Don't think this an idle warning. If you keep guarded, there will be no attempt to oust you, but if there is a chance, it will be taken. Keep the office guarded. The Copperheads here are disgusted with the failure, and will taunt Johnson and Thomas and goad them to desperation. Run no risk."

Later on the same day he wrote again: —

"Keep the office strongly guarded. There is a plan, not by soldiers, but by ruffians with secret arms, to take possession of your office and put Thomas in. Believe this and act upon it."

[2] Memorandum by E. L. Stanton furnished to one of the impeachment managers during the trial.

On the 26th General Thomas was discharged from custody under Mr. Stanton's complaint of the 21st, upon the following statement by counsel representing Mr. Stanton: —

I am instructed by the Secretary of War, Mr. Stanton, to say that his complaint was made for the purpose of having the right of General Thomas to act as Secretary of War *ad interim* judicially tested. This Mr. Stanton could only do by complaining against the President's subordinate. But since this proceeding commenced, the House of Representatives in the name of the people of the United States, having proceeded by impeachment against the principal under whose orders General Thomas acted, Mr. Stanton deems that it would be needless for him at this time to prosecute the subordinate, or test in another tribunal a question on which the House of Representatives has demanded judgment against the principal in the highest judicial tribunal of the nation. He therefore waives at present the further prosecution of his complaint, and consents to the discharge of General Thomas, tendering the costs that have accrued.

From the time that General Thomas demanded possession of the War Department in the name of the President and under his orders, Mr. Stanton remained in the building day and night for several weeks, and after that, and until the end of the impeachment trial, he went home only late at night. General Carr slept in the department during all of that time. But for these precautions, it is probable that the President, through General Thomas, would have taken forcible possession of the department, and would have availed himself of volunteered physical force to eject Mr. Stan-

ton from the building. The President's plan previously suggested to General Sherman — "to simply cause him to quit the War Office building" — was foiled by Mr. Stanton, whose wisdom caused him to make the defense more sudden than the attack.

CHAPTER CXVI

The Articles of Impeachment. — The Impeachment Trial in the Senate. — Outside Influences brought to bear on Senators. — General Schofield's Statement of what he learned on this Head from one of the President's Counsel. — The Vote in the Senate. — One Less than the Two Thirds necessary to convict. — A Tainted Verdict. — Mr. Stanton relinquishes the War Department. — The Impeachment Trial forced President Johnson to abandon his Rebellious Attitude.

On the 25th of February Mr. Stevens reported to the House that the committee appointed for the purpose had appeared at the bar of the Senate and impeached the President as directed to do, and had demanded that the Senate take order to make him appear before that body to answer for the same. The Senate responded that "order shall be taken." On the 2d of March the House adopted the articles of impeachment which had been reported by its committee, and Representatives Bingham, Boutwell, Wilson, Butler, Williams, Stevens, and Logan were chosen by ballot as managers to conduct the impeachment before the Senate. On the 4th of March the managers for the House, attended by the whole House, as in committee of the whole, proceeded to the senate chamber and presented the articles of impeachment, which were read by Mr. Bingham. The President of the Senate announced that the Senate would take due order upon the subject and give proper

notice to the House. The members of the House then withdrew from the senate chamber, whereupon it was resolved that the Senate would proceed to consider the impeachment of the President at one o'clock on the day following.

Eleven articles of impeachment were presented by the House of Representatives to the Senate sitting as a court of impeachment. Freed from all legal and technical verbiage, they may be thus stated: —

1. That, in violation of the Tenure of Office Law, the President made an order to remove Secretary Stanton, and appoint General Lorenzo Thomas as Secretary of War *ad interim*.

2. That he had in public speeches attempted to weaken the rightful authority and power of Congress among the people.

3. That he had denied the legality of the Thirty-ninth Congress, and had publicly declared in substance that it was "not a Congress of the United States authorized by the Constitution to exercise legislative power under the same, but, on the contrary, was a Congress of only a part of the States," thereby denying and intending to deny that the legislation of said Congress was valid or obligatory upon him; and that in pursuance of this declaration he had disregarded and violated the Tenure of Office Law in the case of Mr. Stanton.[1]

The language in which he had most offensively denied the authority of Congress was contained in his speech in the Executive mansion, August 18, 1866, and was as follows: —

[1] See *Impeachment of Andrew Johnson*, vol. i. p. 6.

We have seen hanging upon the verge of the government, as it were, a body called, or which assumes to be, the Congress of the United States, while in fact it is a Congress of only a part of the States.

This was certainly an unequivocal denial that a Congress of the United States existed. It was an assertion that a body which was not a Congress of the United States was unlawfully assuming to be the Congress, and was usurping the legislative power.

The impeachment of Andrew Johnson by the House of Representatives was not the result of passion nor of partisan zeal. It was the last resort of a patient and conservative body of men, representing the sovereignty of the people under the Constitution, appealing with great reluctance to the power of impeachment after all other measures had proven inadequate for the maintenance of the laws against the flagrant efforts of the President to render them inoperative. The possession of the War Department was deemed by the President indispensable for his revolutionary purposes. He had finally attempted to seize it in violation of law, and had sent his defiance to both Houses of Congress in the form of a notice of what he had done. This lawless behavior forced a resort to impeachment.

At his trial the President was defended by Henry Stanbery, B. R. Curtis, Jeremiah S. Black, W. M. Evarts, and Thomas R. Nelson.

The taking of testimony was concluded on Monday, April 20, and the Senate, as a court of impeachment, adjourned until Wednesday, the 22d. Of course the testimony disclosed nothing new. It was but a legal

record of current history. The President's war upon Congress, his denial of its legitimacy, and his defiant resistance to the laws it had passed were well known to the world. It only remained, therefore, for the arguments to be presented, — the one side maintaining the legal existence of a Congress and the true meaning of its laws, and the other contending that the President had done no wrong in denying and resisting its authority.

The excitement throughout the country was intense. The Senate consisted of fifty-four members, of whom forty-two were Republicans, independent of those who, although elected Republicans, had, in the previous Congress, acted uniformly with the Democrats. Thirty-six constituted the two thirds which would be necessary for conviction. A defection of seven Republicans would be sufficient to secure an acquittal.

At this point some extraordinary proceedings, apparently of a controlling character, occurred out of court. The President and at least one of his counsel were unwilling to risk the result upon the law and the evidence. They deemed it necessary to bring outside influence to bear upon senators sitting as judges in the High Court of Impeachment. Indeed, some of these judges were represented on good authority as having seen fit to offer their votes to the President upon a certain condition named by them. This condition was the nomination to the Senate of a new Secretary of War whom the country would regard equally reliable with Mr. Stanton in his obedience to the laws of Congress, and equally certain to disobey the President if ordered to

nullify these laws. It was to Mr. William M. Evarts that these senators were said by him to have made their advances, and he undertook to secure their votes by the fulfillment of the condition named. To this end he invited a conference with General John M. Schofield, and asked his consent that his name might be sent to the Senate, before the close of the impeachment trial, as Secretary of War in place of Mr. Stanton.

This conference commenced on the afternoon of the 21st of April, was resumed at eight o'clock in the evening of the same day, and concluded on the morning of the 22d. It remained secret history until August, 1897, — twenty-nine years later, — when it was revealed by General Schofield, with the consent of Mr. Evarts, in an article in the "Century Magazine" of that month, entitled "Controversies in the War Department: Unpublished Facts relating to the Impeachment of President Johnson, by John M. Schofield, Lieutenant-General, U. S. A." General Schofield did not write the story from memory. He produced a "memorandum" made by him at the time, which, he states, explains the circumstances under which he became Secretary of War in 1868, "and the connection of that event to the termination of the impeachment trial." [1]

The following are extracts from this memorandum, which bears date of May, 1868: —

The substance of what Mr. Evarts said was as follows: He was fully satisfied the President could not be convicted upon the evidence; if he was removed, it would be done wholly

[1] This document will also be found at page 413 of General Schofield's book, *Forty-six Years in the Army.*

from supposed party necessity; that this was the opinion and feeling of a considerable number of the ablest lawyers and statesmen among the Republican senators; that it was his and their opinion that, if the President was removed, it would be not really from anything he had done, but for fear of what he might do; that he (Mr. Evarts) did not believe the President could possibly be convicted in any event, but that senators were at a loss to remove the apprehensions of the Republican party as to what the President would do in case of acquittal, unless the War Department was placed in a satisfactory condition in advance. He said: "A majority of Republicans in both Houses of Congress and throughout the country now regret the commencement of the impeachment proceedings, since they find how slight is the evidence of guilty intent. But the serious question is, how to get out of the scrape? A judgment of guilty and the removal of the President would be ruinous to the party, and cause the political death of every senator who voted for it, as soon as the country has time to reflect upon the facts and appreciate the frivolous character of the charges upon which the removal must be based. The precedent of the impeachment and the removal of the President for political reasons would be exceedingly dangerous to the government and the Constitution; in short, the emergency is one of the greatest, national peril." He added that this was the view of the case entertained by several among the most prominent Republican senators, and that from such senators came the suggestion that my nomination as Secretary of War be sent to the Senate, in order that the Senate might vote upon the President's case in the light of that nomination.

. . . . . .

The next morning (April 22), about ten o'clock, I called upon Mr. Evarts at Willard's Hotel, and informed him that I had considered the matter as carefully as I was able to do, and that there was then only one difficulty in my mind. That

was as to what would be the policy of the President during the remainder of his term, in the event of his being acquitted. I mentioned some of the President's recent acts, such as the creation of the Military Division of the Atlantic, disregard of military usage in sending orders to army officers out of the regular channels, etc., — acts for which no good reason could be given, and which at least tended to create discord and trouble. Mr. Evarts replied that he could not tell anything about those matters, but presumed that such annoying irregularities would disappear with the removal of their cause, namely, hostility between the President and Secretary of War. Mr. Evarts said he did not see how I could satisfy myself on that subject without a personal interview with the President, which would not be advisable in the circumstances. I then said I did not expect any pledge from the President, and did not expect to receive any communication from him on the subject, either directly or indirectly; and that I was not willing to converse with the President, nor with any other person except Mr. Evarts, on the subject; but that I wished the President to understand distinctly the conditions upon which I was willing to accept the appointment, and desired Mr. Evarts to inform the President of these conditions. If the nomination was then made, General Schofield would take it for granted that the conditions were satisfactory. I then said I had always been treated kindly by the President, and felt kindly towards him; that I had always advised him, whenever any excuse had been given for offering advice, to avoid all causes of irritation with Congress, and try to act in harmony with the legislative department; that I regarded the removal of Mr. Stanton, in the way it was done, as wrong and unwise; that I understood this proposition as coming originally from the Republican side of the Senate, and as being accepted by the President in the interest of peace, and for the purpose of securing harmony between the legislative and executive departments of the government, and a just

and faithful administration of the laws, including the reconstruction acts. I added: "And if the President knows from General Schofield's acts what he means by this, — if, after these conditions have been fully stated to the President, he sends my name to the Senate, — I will deem it my duty to say nothing on the subject of accepting or declining the appointment until the Senate has acted upon it."

Mr. Evarts intimated that the above was satisfactory, and the interview was ended.

General Schofield says: —

On the 24th (April) the President sent to the Senate the nomination of General Schofield as Secretary of War. . . . I have no means of knowing to what extent, if any, the Senate was influenced by this nomination, but anxiety about the ultimate result seemed to be soon allayed. About a month later a vote was taken in the Senate, and the impeachment failed. My nomination was then confirmed, as stated at the time, by a nearly unanimous vote of the Senate.

The form of the oath administered to the senators sitting in the impeachment trial was that "in all things pertaining to the trial" they would "do impartial justice according to the Constitution and laws." If they believed the President to be guilty of high crimes and misdemeanors, they were sworn to vote for his conviction. If they believed he was not guilty, they were sworn to vote for his acquittal. There was nothing in the oath which permitted them to acquit the guilty or convict the innocent, as the President might or might not make a certain nomination. And yet Mr. Evarts told General Schofield that prominent Republican senators desired his nomination as Secretary of War, "in order that the Senate might vote upon the President's

case in the light of that nomination." Mr. Evarts was not at liberty to mention the names of the prominent senators "holding these views or originating the proposition." Their names cannot of course be found among the thirty-five Republican senators who voted that President Johnson was guilty, namely: —

Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry (Connecticut), Freylinghuysen, Harlan, Howard, Howe, Morgan, Morrill (Maine), Morrill (Vermont), Morton, Nye, Patterson (New Hampshire), Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Wade, Willey, Williams, Wilson, and Yates.

These senators voted the President "guilty," notwithstanding the nomination of General Schofield as Secretary of War. They had no doubt of the latter's fidelity to the laws, but that did not change their judgment that the President had been guilty of high crimes and misdemeanors. If, therefore, any Republican senators sitting as judges in the High Court of Impeachment were affected by the shrewd device of Mr. Evarts, they must have been found among the seven who voted "not guilty," namely, Fessenden, Fowler, Grimes, Henderson, Ross, Trumbull, and Van Winkle.

The plain inference to be drawn from the "memorandum" of General Schofield is that if the President had not nominated him, or some other person in whom the loyal people of the land had equal confidence, the impeachment trial would have resulted in conviction. The President escaped official decapitation and political death by a verdict which was tantamount to declaring

him not guilty, if General Schofield or some equally reliable man opposed to his course should be made Secretary of War. Such a verdict is not without precedent, if we are to credit the report of a case where the verdict of the jury was, "Not guilty, if the prisoner leaves town."

Not the least interesting portion of General Schofield's memorandum is that in which he quotes General Grant's opinion on the impeachment question, as follows: —

> General Grant said he did not believe in any compromise of the impeachment question. The President ought to be convicted or acquitted fairly and squarely on the facts proved; that if he was acquitted, as soon as Congress adjourned he would trample the laws under foot and do whatever he pleased; that Congress would have to remain in session all summer to protect the country from the lawless acts of the President; that the only limit to his violation of law had been, and would be, his courage, which had been very slight heretofore, but would be vastly increased by his escape from punishment. General Grant said he would not believe any pledge or promise Mr. Johnson might make in regard to his future conduct. In his opinion, the only safe course, and the most popular one, would be to remove the President.

The argument in the impeachment trial continued from April 22 until the 6th of May. On the 16th of the latter month a vote was taken on the 11th article, and, as before stated, thirty-five — one less than two thirds — voted "guilty," and nineteen voted "not guilty." The court adjourned until the 26th. On that day the 2d and 3d articles of impeachment were voted on, with the same result as that on the 11th. The vote upon

these articles being deemed a sufficient test, the Senate, sitting as a court of impeachment, adjourned *sine die.*

Immediately upon the termination of the impeachment trial, Secretary Stanton addressed the following letter to the President: —

SIR, — The resolution of the Senate of the United States, of the 21st of February last, declaring that the President "has no power to remove the Secretary of War and designate any other officer to perform the duties of that office *ad interim*," having this day failed to be supported by two thirds of the senators present and voting on the articles of impeachment preferred against you by the House of Representatives, I have relinquished charge of the War Department, and have left the same and the books, archives, papers, and the property heretofore in my custody as Secretary of War, in care of Brevet Major-General Townsend, subject to your directions.

This letter he sent to the President by Adjutant-General Townsend, to whom he addressed the following letter on the same day: —

GENERAL, — You will take charge of the War Department, and the books and papers, archives and public property, belonging to the same, subject to the disposal and directions of the President.

General Schofield's nomination was then confirmed by the Senate, the resolution therefor being as follows:

Whereas, on the 23d of April, 1868, the President nominated John M. Schofield to be Secretary of War, in place of Edwin M. Stanton, removed; and *Whereas*, in the opinion of the Senate, the said Stanton has not been legally removed from his office, but inasmuch as the said Stanton has relinquished his place as Secretary of War, for causes stated in his note to the President; Therefore —

Resolved, That the Senate advise and consent to the appointment of John M. Schofield to be Secretary of War.

General Schofield says in his "Century" article that President Johnson never required him to do anything contrary to the laws of Congress, but fulfilled to the letter the implied promise made at the time of nominating him to the Senate. There never was any adverse criticism upon the general's administration of the War Department.

General Schofield's "memorandum" makes it perfectly evident that the President feared a vote of the Senate, and that through his counsel, Mr. Evarts, he capitulated to certain senators who would vote for acquittal only on the condition that he would cease his opposition to the reconstruction laws, and nominate a Secretary of War who would as faithfully execute them as Mr. Stanton had done.

According to this testimony, he was compelled to abandon his rebellious attitude towards the reconstruction laws, in order to control certain votes that would otherwise have been given for his conviction through fear of public censure. By this bargain he escaped "removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States." But the same testimony is an enduring record that he was not acquitted upon the merits of the case. The decisions of tribunals established for the trial of persons charged with crime are tainted whenever they are confessedly based on policy, and not on the law and the evidence.

CHAPTER CXVII

The Duties of the Secretary of War. — Conflicts with the General of the Army. — Differences between Stanton and Grant. — Stanton's Views finally accepted by Grant. — General Schofield also adopted them when General-in-Chief.

BEFORE passing from the consideration of Mr. Stanton's administration of the War Department, it will be interesting to note how his views as to his own lawful authority as Secretary of War, which had produced some friction with the general of the army, were fully vindicated.

When Mr. Stanton took office in January, 1862, the law of August 7, 1789, thus in part prescribed his duties:

> He shall perform such duties as shall from time to time be enjoined on, or intrusted to him by the President relative to military commissions, the military forces, the warlike stores of the United States, or to other matters respecting military affairs; and he shall conduct the business of the department in such manner as the President shall direct.

He was also to "have the custody and charge of all the books, records, papers, furniture, fixtures, and other property appertaining to the department."[1] He was also to perform many duties specifically defined, including the purchase, transportation, and distribution of army supplies.

[1] *U. S. Revised Statutes*, sec. 216, 217.

The military authority of the President he found in that provision of the Constitution which declares that the President shall be commander-in-chief of the army and navy.

On the day following Mr. Stanton's appointment as Secretary of War, the inquiry was addressed to him by the congressional Committee on the Conduct of the War, "Whether there is such an office as general-in-chief of the armies, or any grade above that of major-general?" This inquiry was intended to elicit from the Secretary an opinion concerning the relative authority of the President and of the general designated by him to command the armies. There had been for some time an apparently concerted effort to create the false impression in the public mind that the general-in-chief of the army — then General McClellan — was supreme in military authority and infallible in judgment; that he was to determine without challenge from any source whatever whether the army should be used for the purpose for which it had been raised, and that interference with him by the President or Congress would be an unwarranted and dangerous "meddling by the politicians."

Mr. Stanton in reply furnished a "memorandum" citing the various enactments of the Continental Congress on the subject of the command of the army, and reciting the fact that, under the Constitution framed in 1789, the President was made "commander-in-chief of the army and navy, and of the militia of the several States when called into the actual service of the United States." He quoted from the original commission of General Washington of June 1, 1776, the following: —

You are to regulate your conduct in every respect by the rules and discipline of your commission as herewith given you, and punctually to obtain and follow such orders and directions as you may from time to time receive from this or a future Congress of these United Colonies, or a committee of Congress.

The office of commander-in-chief under the confederation became vacant by the resignation of Washington December 23, 1783, and the title of commander-in-chief was not again restored until the adoption of the Constitution conferred it upon the President of the United States.

Mr. Stanton always kept in view the facts that the President was, by virtue of the Constitution, the military chief of the nation as well as its chief civil magistrate; that, by authority of law, the President, when it pleased him to do so, acted through the Secretary of War, whose acts were his chief's, except in the performance of some duty devolved directly upon the Secretary by act of Congress; and, finally, that above presidents, secretaries, and generals were the representatives of the people in Congress, — intrusted by the Constitution with the war-making power, the power to make regulations for the army and navy, and the power to pass all laws necessary and proper for the execution of the powers vested in the United States or in any officer or department thereof. Mr. Stanton believed that under the law the several chiefs of the bureaus in the War Department, including the adjutant-general, were subordinates of the Secretary of War, and that all orders to them should go through him. General Grant for a

long time took a different view, and thought he ought to directly control the office of the adjutant-general. In this he had the example of General Scott.

In a letter to Mr. Stanton dated January 29, 1866, General Grant said that from the period of difficulties between General Scott and Secretary Marcy, during the administration of President Polk, "the command of the army virtually passed into the hands of the Secretary of War."

Concerning his own relations with the War Department he said: —

> During the war, while in the field my functions as commander of all the armies were never impaired, but were facilitated in all essential matters by the administration and by the War Department.

The war being over, and the army headquarters removed to Washington, he found his position embarrassing. He thus explained: —

> In a few words I will state what I conceive to be my duties and my place, and ask respectfully to be restored to them and it. The entire adjutant-general's office should be under the entire control of the general-in-chief of the army. No orders should go to the army or to the adjutant-general except through the general-in-chief. Such as require the action of the President should be laid before the Secretary of War, whose actions would be regarded as those of the President.

In his "Memoirs"[1] he makes reference to this same matter as "a little spat" with the Secretary of War, and explains that the latter prohibited any order from going out of the adjutant-general's office until he had approved it.

[1] Vol. ii. p. 105.

When General Grant became President, in 1869, General Schofield was Secretary of War. In the latter's "Forty-six Years in the Army" (page 421), he states that the new President requested him to continue in office for a brief time, "for the purpose of inaugurating the system which he hoped would end the long-standing controversy between the War Department and the headquarters of the army." He says that, under General Grant's instructions, he prepared the order assigning General Sherman to command the entire army, staff as well as line, and that "the draft of the order was approved by him (General Grant) as expressing the views he had maintained when he was general-in-chief;"[1] but in the same paragraph General Schofield also tells us that "as President he very soon yielded to the opposite views, and caused the order to be amended accordingly."

On the 26th of the same month, by President Grant's direction, General Rawlins, his new Secretary of War, issued an order substantially adopting the views which had been the basis of Secretary Stanton's administration of the War Department.[2]

[1] This order, dated March 5, 1869, contains the following: —

"The chiefs of staff corps, departments, and bureaus will report to and act under the immediate orders of the general commanding the army.

"Any official business which by law or regulation requires the action of the President or Secretary of War will be submitted by the general of the army to the Secretary of War, and in general all orders from the President or Secretary of War to any portion of the army, line or staff, will be transmitted through the general of the army."

[2] This order read: —

"*By direction of the President*, the order of the Secretary of War, dated War Department, March 5, 1869, and published in General Orders No. 11, Headquarters of the Army, Adjutant-General's Office, dated March 8,

Referring to this order, General Sherman says in his "Memoirs," 2d edition, page 442: —

This was the very reverse of what General Grant, after four years of experience in Washington as general-in-chief, seemed to want, different from what he had explained to me in Chicago, and totally different from the demand he had made upon Secretary of War Stanton in his complete letter of January 29, 1866.

When General Schofield became general-in-chief of the army in 1888, he too became a convert to Mr. Stanton's view. After long study of the subject, he came to the conclusion that "the general-in-chief or nominal commanding general can at most be only a chief of staff," the President himself being, under the Constitution, commander-in-chief. "Accordingly," he says, "I sent an order in writing to the adjutant-general directing him never, under any circumstances, to issue an order dictated by me or in my name, without first laying it before the Secretary of War, and I made it known to all the staff that I disclaimed the right to issue any order to the army without the knowledge of the President or of the Secretary."

Writing nine years later, General Schofield expresses himself as being still satisfied with this view, and de-

1869, except so much as directs General W. T. Sherman to assume command of the army of the United States, is hereby rescinded.

"All official business which by law or regulations requires the action of the President or Secretary of War will be submitted by the chiefs of staff corps, departments, and bureaus to the Secretary of War.

"All orders and instructions relating to military operations issued by the President or Secretary of War will be issued through the general of the army."

clares it to be "the best practicable solution of a long-standing and dangerous controversy, and as most in accord with the fundamental principles of our constitutional government, under which the President, whether a soldier or a civilian, is in fact, as well as in name, the commander-in-chief of the army and navy."[1]

The wise conclusion to which General Schofield came in 1888, and which is in strict accord with the order of President Grant of March 26, 1869, had been reached by Mr. Stanton when he entered the War Office in January, 1862, and always governed him in the administration of the War Office.

It would be impossible to conceive of a more complete vindication of Mr. Stanton's understanding of his rightful authority as Secretary of War than is contained in President Grant's order of March 26, 1869, and in the comments thereon by Generals Sherman and Schofield. Sherman still dissented, but in effect he declared that Grant had adopted Stanton's views.

[1] Schofield, *Forty-six Years in the Army*, page 422.

CHAPTER CXVIII

Mr. Stanton in Retirement. — Thanks of Congress. — Mr. Dana's Eloquent Tribute. — Speeches for Grant. — Practicing his Profession. — His Financial Condition. — President Grant's Friendly Attitude. — Stanton's Last Illness. — His Appointment as Justice of the Supreme Court. — The Pleasure it gave him. — His Death.

Mr. Stanton's public career ended with his relinquishment of the War Department immediately upon the close of the impeachment trial. The remainder of his life was uneventful.

The Republican national convention had nominated Grant for the presidency. Being in session after the Senate's first vote on impeachment and before the final one, it had indorsed the reconstruction acts of Congress, and expressed its approval of the President's impeachment and its confidence in the senators who had voted for his conviction; but it had strangely omitted to mention the name of Mr. Stanton, who had been the strongest barrier against the President's reactionary course, and who had stood the brunt of the hardest blows from its supporters. This omission was compensated by the adoption of the following concurrent resolution of Congress: —

Resolved by the Senate (the House of Representatives concurring), That the thanks of Congress are due, and are hereby tendered, to Hon. Edwin M. Stanton for the great ability,

purity, and fidelity to the cause of the country with which he has discharged the duties of Secretary of War, as well amid the open dangers of a great rebellion as at a later period when assailed by the opposition, inspired by hostility to the measures of justice and pacification provided by Congress for the restoration of a real and permanent peace.

This resolution was introduced by Senator Edmunds, of Vermont, on the 28th of May, two days after the conclusion of the impeachment trial, and seven days after the adoption of resolutions by the national Republican convention. It was adopted in the Senate on the 1st of June by a vote of 37 to 11. Among the yeas were the names of Fessenden, Trumbull, and Van Winkle, who had voted against impeachment. But for the absence of Mr. Corbett, the vote would have stood 38 to 11, with five absent. The resolution was adopted in the House on the 19th of June by a vote of 102 to 25, 63 not voting. In the Senate, in the press throughout the country, and among the people, there was a generous recognition of the great services, the unselfish patriotism, and the unsullied integrity of the retiring Secretary. From the many eulogies pronounced upon him at that time the following is selected as the best and most comprehensive summary of the qualities which combined to make up the character of the man. It was written by Charles A. Dana, whose friendship and admiration were based on an intimate acquaintance with Mr. Stanton during several years of service with him as an Assistant Secretary of War: —

We shall not here attempt to recount the story of the War Department during the years of Mr. Stanton's control.

Enough to say that his labors were enormous, his devotion unwavering, his integrity utterly pure and incorruptible. His great intelligence and ardent, impulsive nature knew no divided or halting allegiance. With him patriotism was never a cold or a calculating sentiment. His soul was always at white heat in his country's cause. Indifferent to his own glory as to his own interest, neglecting attacks on his own reputation as he did temptations to swerve from his duty, he lived only for the Republic. Her liberties, her greatness, her destiny, the auspicious future of her free institutions, formed the exclusive objects of his thoughts, his toils, his existence. He loved the American democracy, its ideas, its unity, its form of government, its mission among mankind, with a passion whose depth, constancy, and energy partook of fanaticism. This was the inspiration of his career and the source of his extraordinary capacity for the transaction of public business. The amount of work he could perform was astonishing. He was always ready, always swift, always untiring, always resolute. His faculties were habitually kept in the most intense activity; he reasoned and acted with the heart as well as with the brain. It is said that his action was sometimes precipitate and faulty; but such criticism is very cheap and easy now that the crisis is gone and its weighty exigencies forgotten. To pretend that he was never mistaken would be to make him more than human; but the faithful historian must ever record that at all times and under all circumstances he was honest, unselfish, faithful to his country, and gifted with abilities equal to the occasion.[1]

Mr. Stanton's health had been undermined by six years of labor such as few men could endure. The nervous excitement of the continuous mental strain to which he was subjected had served as a stimulant to sustain him while his work continued, but when it

[1] New York *Sun*, editorial, May 28, 1868.

entirely ceased and the quiet of his own home was substituted for the turbulent struggles into which circumstances had forced him, the natural reaction followed, and his old enemy, the asthma, was reinforced by increasing debility. Notwithstanding this, he participated in the political campaign of 1868, making speeches for General Grant to the extent of his strength.

At his old home in Steubenville, Ohio, he spoke at great length and with something of his old fire. He spoke also at the Academy of Music in Philadelphia with great earnestness and effect. He did this under protest of his physician, with whom he finally compromised by agreeing to speak only twenty minutes. The physician, sitting on the stage watch in hand, was unable to stop him at the expiration of the time.

Very shortly after the election of General Grant to the presidency, Mr. Edwards Pierrepont wrote to Mr. Stanton that General Grant had remarked to him a few days before that "Stanton is entitled to anything."

On the 6th of September Senator Conkling, in a cordial letter inviting a visit from Mr. and Mrs. Stanton, made the following reference to General Grant: —

> Yesterday General Grant asked me where you were. I had not then learned and could not learn till to-day. He spoke of you with strong feeling of friendship, and said he wanted to write you also. I was glad to hear his tone, and think you may not feel averse to hearing of it.

Before entering the Cabinet Mr. Stanton had amassed considerable means in the practice of his profession. He stood among the foremost lawyers at the bar of the Supreme Court of the United States. His accumula-

[*Roscoe Conkling to Mr.*

Yesterday Genl. Grant ask
had not then learned and
He spoke of you with sti
said he wanted to write to
his tone, & think you may
of it. Trusting we ma
regards to all your hou
Yo

P.S. I wish you would
particularly how you

nton, September 6, 1869]

o me where you were. I
Could not learn till today.
g feeling of friendship and
you also. I was glad to hear
not feel averse to hearing

y see you, with kindest

e,

n friend & servant
Roscoe Conkling

ell me

re. R.C.

tions were so diminished at the time of his death that his property was limited to the residence occupied by him at Washington.[1]

Surgeon-General Barnes, who attended Mr. Stanton in his last illness, stated that "the dropsy of cardiac disease manifested itself after a very exhausting argument in chambers in a legal case, and from that time he did not leave his house and rarely his bed."

Some of Mr. Stanton's friends commenced, in December, 1869, a movement for his appointment to the Supreme Bench in place of Justice Grier, who had expressed his intention to retire, without fixing any date.

Mr. Stanton had been in the minds of men for the chief justiceship when that place was made vacant by the death of Chief Justice Taney in October, 1864. His old friend and mentor, Justice Grier, wrote him at that time as follows: —

[*Confidential.*] PHILADELPHIA, October 13, 1864.

HON. E. M. STANTON.

Dear Sir, — I have just received your telegram announcing the decease of Chief Justice Taney. Although often

[1] His correspondence shows that in two cases his devoted friend, P. H. Watson, obtained loans for him, which the lenders endeavored to have treated as gifts in appreciation of his public services. This he refused in strong though grateful terms, saying that if his life should be spared and health restored, he hoped to find no trouble in making payment out of the gains of his profession, or, if called while the debt was outstanding, his estate would have enough to pay it. In a like spirit he absolutely compelled his intimate friend, Edwards Pierrepont, to abandon the project of raising for him $100,000 by subscription, which would undoubtedly have been attended with success.

After his death a fund of $60,000 was contributed by friends to his family.

differing in opinion with him, I had the highest respect and esteem for him, and sincerely lament his loss.

I see speculations are already rife as to his successor. It is a question in which I feel a deep interest. I know of no man more competent to fill the place, or who deserves it so much as yourself. You have been wearing out your life in the service of your country, and have fulfilled the duties of your very responsible and laborious office with unexampled ability, and I think the President owes it to you, and that you should be suffered to retire in this honorable position. I see the papers are already beginning to put forward the name of Mr. Chase. But I presume the President will not be persuaded thereby that he is the choice either of the bar or the people, or attend to the dictation of journalocracy.

It would give me the greatest pleasure and satisfaction to have you preside on our bench. I am sure you would be the right man in the right place.

I am with much respect and esteem,

Truly yours,

R. C. Grier.

Bishop Simpson reported a conversation he had with Mr. Lincoln on the subject, in which he urged Mr. Stanton for the appointment. The President's reply was: "If you will find me another Secretary of War like him, I will gladly appoint him."

Stanton's son, Edwin L., said of his financial condition: —

Although Mr. Stanton's health had been destroyed by his labor in the War Department, his circumstances compelled him to resume the practice of his profession, and he argued several important cases. The last of these was that of Whitney *v.* Mowry, an important patent case, in which Judge Benjamin R. Curtis was opposed to him. This case was

[*Justice Grier to Mr. Stanton, October 13, 1864*]

Philadelphia
October 13 – 1864

Hon E M Stanton

Dear Sir

I have just received your telegraph announcing the decease of Chief Justice Taney – although often differing in opinion with him I had the highest respect and esteem for him & sincerely lament his loss

I see speculations are already rife as to his successor – It is a question in which I feel a deep interest – I know of no man more competent to fill the place, or who deserves it so much as yourself – You have been wearing out your life in the service of your country & have fulfilled the duties of your very responsible & laborious office with unexampled ability – and I think the President owes it to you & that you should be suffered to retire in this honorable position

It would give me the greatest pleasure and satisfaction to have you preside on our bench. I am sure you would be the right man in the right place.

I am with much respect and esteem

truly yours

R. J. Price.

argued (in chambers) two weeks before Mr. Stanton's death, and in his own library, where, in view of his feeble health, Judge Swayne, of the Supreme Court, kindly consented to hear counsel.

This argument continued through the 9th, 10th, 13th, and 14th of December. He never left his home after that.

On the 16th of December, two days after the long-protracted argument above referred to had prostrated him, the following communication was addressed to the President, signed by the Vice-President and thirty-eight senators: [1] —

WASHINGTON, D. C., December 16, 1869.

TO HIS EXCELLENCY, U. S. GRANT, PRESIDENT OF THE UNITED STATES.

Sir, — We have the honor to recommend the Hon. Edwin M. Stanton, of Pennsylvania, for appointment as Associate Justice of the Supreme Court of the United States, in place of Mr. Justice Grier, who, it is understood, has resigned or is about to resign his seat on that bench.

[1] The signatures were as follows: —

Schuyler Colfax	Alexander McDonald	Geo. F. Edmunds
W. G. Brownlow	W. M. Stewart	C. Cole
Matt H. Carpenter	James Harlan	Abijah Gilbert
George H. Williams	John M. Thayer	William Warner
John Scott	W. T. Willey	J. S. Harris
Charles Sumner	Joseph C. Abbott	L. W. Osborn
Alex Ramsey	L. M. Morrill	H. B. Anthony
H. Hamlin	Wm. A. Buckingham	A. H. Cragin
James W. Nye	C. Schurz	S. C. Pomeroy
Henry Wilson	B. F. Rice	Z. Chandler
C. D. Drake	J. W. Patterson	T. I. Robertson
Roscoe Conkling	R. E. Fenton	H. W. Corbett
J. M. Howard	D. D. Pratt	O. P. Morton

The eminent qualification of Mr. Stanton for this position and the great obligation which in our opinion this country is under to him speak more loudly in his favor than we can; so we content ourselves with mere recommendation, and we most ardently hope that he may be so appointed.

On the 18th of the same month this recommendation was seconded by the following communication, signed by 118 members of the House of Representatives:[1] —

[1] The signatures were as follows: —

J. G. Blaine	A. E. Buck	John A. Peters
John A. Bingham	Jacob C. Benton	J. C. McGrew
Benj. F. Butler	Jacob H. Ela	A. H. Bailey
Wm. H. Upson	Steven Sanford	R. R. Butler
James Buffinton	John A. Smith	W. H. Kelsey
W. B. Allison	S. H. Boyd	H. H. Starkweather
Wm. Lawrence	Robert T. Van Horn	D. J. Morrill
T. A. Jenks	J. Packard	W. A. Wheeler
Wm. Loughridge	J. H. Moore	Nathan F. Dixon
N. B. Judd	Chas. O'Neill	C. C. Bowen
Horace Maynard	S. S. Burdette	Wm. H. Armstrong
S. Hooper	F. C. Beaman	A. F. Stevens
H. C. Burchard	A. D. Conger	Worthington C. Smith
A. A. Bradford	T. W. Ferry	John S. Wicher
D. McCarthy	Thomas Fitch	D. Phelps
Sidney Clarke	Austin Blair	J. J. Winans
F. W. Palmer	C. C. Washburne	G. A. Finkelnburg
Godlove S. Orth	J. F. Farnsworth	A. D. Laflin
J. T. Wilson	W. B. Stokes	S. M. Cullom
Orange Ferris	John Cessna	H. L. Dawes
Burton C. Cook	M. Welker	Porter Sheldon
W. S. Smith	Wm. Moore	J. F. Asper
John B. Hawley	J. A. Ambler	John Lynch
C. H. Van Wyck	J. B. Hay	Eugene Hale
O. J. Dickey	Philetus Sawyer	John A. Logan
W. Townsend	Wm. D. Kelly	Robert C. Schenck
Chas. Pomeroy	Samuel M. Arnell	I. H. Ketcham
John Fisher	John T. Deweese	Amasa Cobb
J. B. Backer	John Coburn	Chas. Knapp

WASHINGTON, D. C., December 18, 1869.

U. S. GRANT, PRESIDENT OF THE UNITED STATES.

The undersigned members of the House of Representatives of the United States, appreciating the eminent public services and distinguished abilities of the Hon. Edwin M. Stanton, respectfully and earnestly recommend his appointment as Justice of the Supreme Court of the United States, in the place of Mr. Justice Grier, resigned.

On the same day (the 18th) R. B. Carnohan and General Moorehead, two old Pittsburg friends of Mr. Stanton, called on Judge Grier. Mr. Carnohan wrote Mr. Stanton an account of this interview, in which he said: —

General Moorehead and myself called on Judge Grier this afternoon. We told him that the President had said to us to say that you would be appointed his successor. He expressed himself gratified at this information, said he had intended to recommend your appointment to the President, and that if he had been sure you would be his successor, he would have had less difficulty about resigning.

He explained, however, that the condition of the business in the court would render it difficult for him to leave the bench before February.

G. W. Schofield
John Beatty
B. F. Whittemore
S. L. Hoge
John P. C. Shanks
Leonard Myers
W. Williams
W. S. Wilkinson
D. W. Hotchkiss
L. G. Clark
H. L. Cake
Luke P. Poland
R. Strickland
C. W. Buckley
J. A. Garfield
H. E. Paine
D. S. Bennett
Samuel P. Morrill
John C. Churchhill
Job E. Stevenson
J. F. Benjamin
A. A. Sargent
W. F. Prosser
S. W. Kellogg
Jas. N. Tyner
John Taff
D. Heaton
A. H. Jones
Wm. Smyth
C. M. Hamlin
Jas. S. Negley

It is evident from this that the President was of the same mind with the majority of the Senate and House. It does not appear whether he had preceded their action or responded to it.

A Washington dispatch to the "Tribune," of the 19th of December, said that the President had on that day called at the residence of Mr. Stanton, and tendered him the appointment of Justice of the Supreme Court made vacant by the recent resignation of Justice Grier. Also that Mr. Stanton accepted the offer. The President said he would send the nomination to the Senate before the holidays.

Mr. Stanton's nomination was made on the 20th of December, and read as follows: —

To the Senate of the United States: —

I nominate Edwin M. Stanton to be an Associate Justice of the Supreme Court of the United States in place of R. C. Grier, whose resignation, to take effect on the 1st of February next, has been sent to and accepted by me.

U. S. Grant.

Executive Mansion, December 20, 1869.

This nomination was immediately confirmed without the usual reference to a committee, a compliment rarely paid to any one not at the time a member of the Senate. The vote upon this confirmation stood yeas 46 and nays 11.

To the President Mr. Stanton addressed the following letter, acknowledging his appointment and expressing his thanks: —

Dear Sir, — I beg you to accept my thanks for your nomination of me as one of the Associate Justices of the Supreme

Court of the United States. It is the only public office I ever desired, and I accept it with great pleasure.

The appointment affords me the more pleasure as coming from you with whom for several years I have had personal official relations such as seldom exist among men.

It will be my aim so long as life and health permit to perform the solemn duties of the office to which you have appointed me with diligence, impartiality, and integrity.

I have the honor to be truly your friend,

EDWIN M. STANTON.

To the PRESIDENT.

This letter exhibits at once Mr. Stanton's elation at the coveted honor, his desire for life, and his expectation of recovery.

"On the night of December 23," says Surgeon-General Barnes, "the dropsical effusion in the pericardium had increased to such an extent, and the symptoms were so alarming, that the Rev. Dr. Starkey, the rector of the Church of the Epiphany, was summoned, and read the services appointed for such occasions. He, with Mrs. Stanton, Mr. E. L. Stanton, the three younger children, Mrs. Bowie (the nurse), and myself, and several of the servants, were by his bedside until he died at four A. M. on the 24th of December, 1869." [1]

[1] Letter to Edward McPherson, — MS.

CHAPTER CXIX

Honors to Stanton's Memory. — President Grant's Announcement of his Death. — Order of War Department. — Action of Senators and Representatives. — Funeral Obsequies.

IMMEDIATELY upon the death of Mr. Stanton the President issued the following order: —

EXECUTIVE MANSION,
WASHINGTON, D. C., December 24, 1869.

The painful duty devolves upon the President of announcing to the people of the United States the death of one of its most distinguished citizens and faithful servants, the Hon. Edwin M. Stanton, which occurred in this city at an early hour this morning. He was distinguished in the councils of the nation during the entire period of the recent struggle for national existence; first as Attorney-General, then as Secretary of War. He was unceasing in his labors, earnest and fearless in the assumption of responsibilities necessary to his country's success, respected by all good men, and feared by wrong-doers. In his death the bar, the bench, and the nation sustain a great loss, which will be mourned by all. As a mark of respect to his memory, it is ordered that the Executive mansion, and the several departments at Washington, be draped in mourning, and that all business be suspended on the day of the funeral.

U. S. GRANT.

An order was issued from the War Department announcing Mr. Stanton's death, and directing that fifteen guns be fired at each military post in the country.

The justices of the Supreme Court had a conference with a view to taking charge of the funeral, but, upon consultation with the Secretary of War, it was thought most appropriate that the funeral services should be held under the control of the Department of War. A meeting of United States senators was held at the Capitol to make arrangements for attending the funeral. Vice-President Colfax presided, and Senators Hamlin, Sherman, Scott, Trumbull, and Williams were appointed a committee to prepare suitable resolutions and make arrangements for attendance upon the funeral. Appropriate resolutions were reported and adopted. A meeting of the members of the House of Representatives was also held, and similar proceedings took place.

Senator Sherman, on behalf of senators and representatives, visited Mrs. Stanton, and expressed to her their desire that the body of the deceased Secretary be removed to the hall of the House of Representatives, where the final obsequies should be conducted. Mrs. Stanton expressed her gratitude for this mark of respect, but said that her grief and ill health would render it impossible for her to be present at the Capitol, and that therefore she could not consent to the arrangement. The funeral took place at the residence of the deceased. His mother and sisters, who resided at his old home in Ohio, were present, besides the members of the family and intimate friends. There were also present President and Mrs. Grant, the Vice-President, the Chief Justice and his associates, General Sherman, Admiral Porter, the members of the Cabinet, many senators and representatives, the members of the diplo-

matic corps, and many other officials of every grade. Great numbers of personal friends came also. Throughout the country there were demonstrations indicating the profound esteem in which Mr. Stanton was held, and the newspapers, including a great many that were opposed to him politically, pronounced glowing eulogies upon him as a patriot, a statesman, and a man.

Executive Mansion,

Washington, D.C. Jan. 3 1870

Mrs. E. M. Stanton:

Dear Madam:

I have caused to be issued, and send herewith, a Commission as Justice of the Supreme Court for your made

ing this to you I am at a loss to find words expressive of my sympathy for you in your great affliction, and of the estimation I placed upon the ability, integrity, patriotism and services of him whom a nation joins you in mourning the loss of.

With great respect Your obt. Svt.

U. S. Grant

CHAPTER CXX

President Grant's Letter to Mrs. Stanton. — Proceedings in the Supreme Court of the United States in Relation to the Death of Mr. Stanton. — Eulogy by the Attorney-General. — Resolutions of the Bar. — Remarks of the Chief Justice.

On the 3d of January the President addressed the following letter to Mrs. Stanton, accompanying the same with the commission therein referred to: —

Executive Mansion,
January 3, 1870.

Mrs. E. M. Stanton.

Dear Madam, — I have caused to be issued and send herewith a commission as Justice of the Supreme Court for your much lamented husband.

In forwarding this to you I am at a loss to find words expressive of my sympathy for you in your great affliction, and of the estimation I placed upon the ability, integrity, patriotism, and services of him whom a nation joins you in mourning the loss of.

With great respect,

Your obt. srvt.
U. S. Grant.

Following are the proceedings of the Supreme Court on the 17th of January, 1870. Salmon P. Chase, Chief Justice, and E. Rockwood Hoar, Attorney-General: —

SUPREME COURT OF THE UNITED STATES.

JANUARY 17, 1870.

Upon the coming in of the court, the Attorney-General addressed them as follows: —

MAY IT PLEASE YOUR HONORS, — Since your last adjournment the emblems of public mourning have been again displayed in the capital of the nation under circumstances which press upon the attention of this court with a peculiar and touching solemnity. A great man — great by the acknowledgment alike of those who feared or hated him, and of those by whom he was trusted and honored; a lawyer, a statesman, selected and confirmed, though not commissioned, as an associate justice of the Supreme Court of the United States — has passed away from among us. Edwin M. Stanton, in the maturity of life, with a capacity for public service already demonstrated, in the security of established fame, seemed to our mortal vision about to enter upon a new and long career of honor and usefulness. But such was not the will of Heaven: "*Diis aliter visum!*"

It has seemed to his brethren of the bar a fit occasion to express their regard for his memory, and they have charged me with the official and grateful duty of presenting to your honors the resolutions which have been adopted at their meeting this morning.

Of Mr. Stanton as a lawyer it is enough to say that he had risen to the foremost rank in his profession. He had adequate learning, untiring industry, a ready and retentive memory, clear comprehension of principles, the power of profound and cogent reasoning, and unquestionable integrity; and he gave to the cause of his clients a vigor, energy, and zeal which deserved and commanded success.

But it is not of the lawyer, eminent as he was in the science and practice of the law, that men chiefly think as they remember him. His service to mankind was on a higher and wider field. He was appointed Attorney-General by Mr. Buchanan, on the 20th of December, 1860, in one of the darkest hours of the country's history, when the Union seemed crumbling to pieces without an arm raised for its support; when "without" the public counsels "was doubting, and within were fears;" when feebleness and treachery were uniting to yield whatever defiant rebellion might demand; and good men everywhere were ready to despair of the Republic. For ten weeks of that winter of national agony and shame, with patriotism that never wavered, and courage that never quailed, this true American, happily not wholly alone, stood manfully at his post, "between the living and the dead," gave what nerve he could to timid and trembling imbecility, and met the secret plotters of their country's ruin with an undaunted front, until before that resolute presence the demons of treason and civil discord appeared in their own shape as at the touch of Ithuriel's spear, and fled baffled and howling away.

His published opinions as Attorney-General fill but nine pages, but the name that was signed to them had in that brief time become known throughout the land as the synonym of truth, honor, and fidelity.

Although of a different political party, he was called by Mr. Lincoln into his Cabinet in 1862, as the Secretary of War. But it was at a time when all party divisions had become insignificant, and all party ties trivial, compared with those great duties which engrossed the thoughts and demanded the care of every patriot. He brought to his great trust a capacity for labor that seemed inexhaustible; unflinching courage, indomitable will, patience, and steady persistence, which no fatigue could weary, and no mistakes or misfortunes divert; a trust in the people that never faltered,

an integrity which corruption never dared to approach, and a singleness of purpose which nothing could withstand. That purpose was to crush the rebellion, — and woe to that man who came, or seemed to come, between that purpose and its execution! Coming from civil life, I suppose there is no sufficient evidence that he was, or ever became, a master of the art of war; but the problem before him was to find those who were, and to bring all the resources of the country with an unstinted measure to their support.

We might address him as one of those

> "Chief of men who, through a cloud,
> Not of war only, but detractions rude,
> Guided by faith and matchless fortitude,
> To peace and truth thy glorious way has plowed."

Undoubtedly he had faults and failings. He was said to be despotic and overbearing, and he may have been sometimes unjust; but his work was done in a time when there was little chance for deliberation, and when the "weightier matters of the law" left no time for "tithing mint and anise and cummin." He felt that the life of the nation was in his hands, and under that fearful responsibility he could not always adjust with delicate hand the balance of private rights and wrongs. It is said that his manners were sometimes discourteous and offensive. Who can wonder that that wearied and overburdened man, with such pressure on brain and nerve, was sometimes irritable and unceremonious in his intercourse with shirking officers and peculating contractors, and the crowd of hungry cormorants and interminable bores who perpetually sought access to him; and sometimes confounded with such those who deserved better treatment? But the American people knew that he was honest, able, and faithful. He never stopped for explanation or condescended to exculpate himself.

I have thought it one of the highest and finest traits of his

character that he bore in grim silence all accusations, and stood manfully between his chief and popular censure for acts which he neither originated or approved. It was perhaps the highest triumph of his official career, and the final proof of how justly his confidence in his countrymen was bestowed, that he conducted and carried through the military draft — that severest trial to a free people — when the country, in the time of her direst need, ceasing to entreat, commands the services of her sons. He had his reward; and, like the President whom he served, —

> "Ill thought, ill feeling, ill report lived through,
> Until he heard the hisses change to cheers,
> The taunts to tribute, the abuse to praise,
> And heard them with the same unwavering mind."

He saw the rebellion crushed and the nation vindicated. The people who had learned to know that he was a tower of strength in the time of civil war, who had felt that their cause would never be abandoned or betrayed by him, and to whom his presence in office gave a sense of protection and security, have hailed with joy the prospect which so lately opened of transferring him to a new post of duty in this high tribunal. They knew that the statesman who had found in the Constitution all the powers necessary for its own maintenance would, as a jurist, not fail to find there all the powers needful for the protection throughout the entire country of that civil liberty which it was ordained to secure. But he was already worn out in their service, and gave his life for them as truly as any one who ever periled it on the field of battle.

Mr. Chief Justice, the lesson of this life is a lofty one. The time is soon coming when men will recognize the high natures who, in this period of civil strife, have arisen above the ordinary level of mankind, and are entitled to their gratitude and honor. Upon those towering peaks in the land-

scape, the eye will no longer discern the little inequalities and roughnesses of surface. Already upon the canvas of history some figures are beginning to emerge. They are not those of self-seekers, or of those who were greedy of power or place, but of the men who, in time of public trial and public danger, with none but public objects, have done much for their country and mankind. Among these can his contemporaries fail to discern — will not posterity surely recognize — the lineaments of Edwin M. Stanton? A restored country is his monument.

> "Nothing can cover his high fame but Heaven.
> No pyramids set off his memories
> But the eternal substance of his greatness,
> To which I leave him."

I now submit to your Honors the proceedings of the meeting of the bar, and make the motion which one of the resolutions suggests.

At a meeting of the members of the bar of the Supreme Court of the United States, held at the court-room, in the Capitol, on the 13th day of January, 1870,

Senator Edmunds, of Vermont, was appointed chairman, and R. M. Corwine, of Ohio, Secretary.

On motion,

The Attorney-General, J. M. Carlisle, Esq., and Hon. Robert S. Hale were appointed a committee to draft and report resolutions, who, at an adjourned meeting, on the 17th of January, reported as follows, which report was unanimously adopted, viz.: —

"Edwin M. Stanton, for many years a leading and honored member of this bar, formerly Attorney-General of the United States, and Secretary of War during the war for the preservation of the Republic, recently nominated and confirmed to fill

a prospective vacancy on the bench of the Supreme Court of the United States, distinguished by his professional abilities and attainments, and still more distinguished and endeared to the country he contributed so greatly to save, by his energy, patriotism, and integrity, having, on the 24th day of December, 1869, laid down a life devoted to the cause of his country and worn out in her service, the members of the bar of the Supreme Court of the United States, assembled to render honor to his memory, as an expression of their regard and reverence for his public and private virtues, and of his most useful and patriotic career, have

"*Resolved*, That we desire to express our profound and thorough appreciation of the private worth and public merits of Mr. Stanton; of the loss sustained by the national judiciary in his death, and of the measureless debt of gratitude due to him from the citizens of a country saved from destruction in great degree by his untiring labors, large comprehension, and unswerving integrity.

"*Resolved*, That the Attorney-General be requested to lay this expression of our feeling before the court, and to move that the same be entered upon the minutes of the term.

"*Resolved*, That our chairman communicate a copy of these proceedings, and of such action as the court may take thereon, to the widow and children of our deceased brother, with the assurance of our sympathy and respect."

The Chief Justice remarked, in reply: —

"The court unites with the bar in acknowledging the private worth, the professional eminence, and the illustrious public services of Mr. Stanton, and in sorrow that the country has been deprived, by his premature decease, of the great benefits justly expected from his remarkable attainments and abilities in the new sphere of duty to which he had been called.

"We all anticipated from his accession to the bench increased strength for the court, and most efficient aid in its

deliberations and decisions. We indulged the hope that his health, impaired by oppressive anxieties and arduous labors as the head of the Department of War, would be fully restored under the influence of the calmer and more regular course of this tribunal, and that prolonged life would afford him many opportunities of establishing additional claims upon the gratitude and honor of his country in the upright performance of judicial duty.

"But Providence has ordered otherwise. He was not even permitted to become in fact a member of this court. He had hardly been nominated and confirmed to fill the vacancy which will occur a few days hence, through the prospective resignation of our honored brother, Mr. Justice Grier, when death entered upon the scene and closed his earthly career.

"Our deepest sympathies are with his family and friends in their bereavement. We mourn their loss as our own loss, as the loss of the profession which he adorned, and of the country which he served.

"The proceedings of the bar, the address of the Attorney-General, and this response will be entered upon the minutes, and, as a further mark of respect, the court will now adjourn without transacting any business."

CHAPTER CXXI

CONCLUSION

So ends the story of a great and noble life. It stands verified in these pages by the records of the nation, in the presence of which calumny must perforce be silent, while justice reverses the hasty judgments of those who were unable to see the man through the thick mists of strife-born prejudice and hate.

That record, with much other testimony equally unassailable, presents to the world a character of unspotted integrity and a life of sublime self-abnegation. Not only did Stanton serve his country without thought of advantage or promotion for himself, but in that service he maintained so high a standard of public duty that he raised up around him a host of enemies. He endured without complaint groundless and injurious assaults, and to the torrents of obloquy which roared around him he never deigned a reply.

Before Mr. Lincoln became President, or General Grant had thought of returning to military life, Stanton had impressed his powerful personality upon the expiring administration of President Buchanan, and startled the nation from its long sleep to a realization that the Union would have to be fought for. His services at that time were of inestimable value, and resulted in his being called to the Cabinet of Mr. Lin-

coln as Secretary of War during the first year of the rebellion.

Moral courage was a large element in his character; this was well shown when he severed the political associations of a lifetime, to take his stand with an administration against which he was at the time greatly prejudiced, because that seemed to him the only way to unreservedly support the cause of the nation against those who would dismember it. His physical courage was unfailing, as shown by his indifference at all times to the question of his own personal safety, in the presence of the dangers to which he voluntarily exposed himself by the severe measures he adopted in the conduct of the War Department. He was at all times the most dangerously conspicuous object for attack by all the methods and through all the channels which enemies of the Union and conspirators against the Treasury could command.

His faith in the final triumph of the Union arms never for a moment faltered or abated. When the outlook was most gloomy, in time of war, he spoke the words of cheer and hope which again and again rallied the spirits of the people, and made patriotic enthusiasm take the place of discouragement and depression. His stalwart nature was like a strong fortress for the saddened and weary President, whose chosen companion he was at such times.

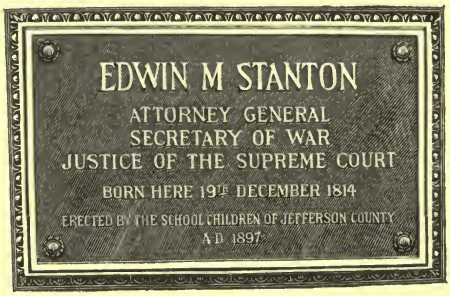
Stanton was the motive power of Lincoln's administration. His unmatched and untiring will and energy supplied the force which moved forward at all times, setting the pace at which the government also should

move, and carrying all along with it. Whatever number of troops were to be raised, he regulated the speed of the official machinery by which it was to be done, and also of that by which they should be equipped, supplied, and transported to the camps. He was a terror to evil-doers, among whom he included all who fell short in their duty to the government whether as officials or contractors. Whatever was promised for the army had to be forthcoming, as to quality, quantity, and time. Governors of States looked to him for advice, and co-operated with him as friends and associates in placing troops in the field. Committees of Congress came to him for war measures, and found them ready. He pervaded all places in the government which in any manner touched the war resources of the nation. He sent dispatches to the general commanding in New York, — giving reports of battles, orders with the President's thanks to officers and men for great victories, explanations to break the force of disasters, announcements of war measures, and such other matters as might be necessary in the formation of public opinion, in aid of the Union cause, — and had them published in the great daily journals of the country.

At the close of the war he jealously guarded the results, and probably contributed more than any other man to the defeat of a reactionary movement inaugurated by President Johnson.

All these things and much more have been carefully narrated. But who can add to the recital an adequate idea of the fire and vigor of Stanton? Who can tell of his anxious vigils, and his mighty work?

The war produced many great leaders, civil and military. Lincoln was our greatest civilian; Grant our greatest soldier; but Stanton was the one great organizer and energizer of the work by which armies were raised, equipped, supplied, and placed in the field.



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